

Ownership in practice: lessons from Liberia and Kosovo

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Ownership in Practice Lessons from Liberia and Kosovo

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Zusammenfassung

Der Begriff „*Local Ownership*“ findet sich immer häufiger in Berichten, Stellungnahmen und Leitfäden internationaler Akteure, die im Bereich Peacebuilding tätig sind. Dennoch gibt es bisher weder eine kohärente Theorie zu *Local Ownership*, noch eine gemeinsame Auffassung darüber, was die Umsetzung von *Local Ownership* in der Praxis bedeutet. Wie können lokale Bevölkerungen die Hoheit über *Peacebuilding*-Prozesse anteilig oder vollkommen „besitzen“, wenn diese doch vor allem von externen Akteuren dominiert werden?

Momentan spiegelt die akademische Debatte über *Local Ownership* den übergeordneten theoretischen Diskurs zwischen kommunitaristischen und liberalen Positionen in den Internationalen Beziehungen (IB) wider. Vor Ort ist die Herangehensweise internationaler Missionen überwiegend von liberalen Positionen bestimmt. *Local Ownership* bedeutet dabei auf dem strategischen Level weniger die Frage nach lokaler Autonomie und der Auswahl von Programmen und Prioritäten, sondern vielmehr der Versuch, bereits vordefinierte und vordesignierte internationale Politiken an lokale Realitäten anzupassen. Insbesondere bei den Themen Rechtstaatlichkeit und der Administration von Wahlen, den Kernbereichen dieses Forschungsprojekts, existieren schon internationale Blaupausen für eine Vielzahl von Programmbereichen. Im Gegensatz dazu werden in persönlichen Herangehensweisen internationaler Akteure auf der Arbeitsebene öfter kommunitaristische oder *Bottom-up*-Ansätze genutzt, die Freiräume für lokale Partner schaffen und unterstützen möchten, in welchen *Local Ownership* unter Einbezug von lokalen Traditionen ermöglicht wird.

Trotz dieser Unterschiede gibt es bei der praktischen Umsetzung vor Ort bereits einige Methoden und Instrumente der Kooperation zwischen nationalen und internationalen Akteuren, die lokale Teilhabe, Akzeptanz und auch *Ownership* unterstützen. Neue Einsichten zu ebendiesen Erfahrungen mit *Local Ownership* auf dem operativen Level von Friedenseinsätzen zu generieren, war die Hauptzielsetzung der Forschung des ZIF. Das Projekt untersuchte dabei, wie das Prinzip *Local Ownership* in einer Mission mit Exekutivmandat und Regierungsverantwortung (UNMIK im Kosovo) und in einer Mission mit Unterstützungsfunktion, aber ohne Exekutivmandat (UNMIL in Liberia) umgesetzt wurde. Da die oben erwähnte konzeptionelle Unklarheit auch vor Ort vorgefunden wurde, stellte sich die Operationalisierung des Begriffes für die Feldforschung als recht schwierig dar. In einigen Fällen konnten Informationen und Schlussfolgerungen zu *Local Ownership* in den Gesprächen nur indirekt gezogen werden, indem beispielsweise nach praktischen Interaktionsmustern statt Definitionen gefragt wurde.

Die empirischen Erkenntnisse des Projekts zeigen, dass *Local Ownership* innerhalb der Programmarbeit von internationalen Friedenseinsätzen fast ausschließlich mit Regierungsstrukturen umgesetzt wird und typischerweise weder die Zivilgesellschaft, noch die weitere Öffentlichkeit eines Landes mit einbezieht. Darüber hinaus ist die Interaktion zwischen internen (lokalen) und externen (internationalen) Akteuren größtenteils von einer asymmetrischen Beziehungsstruktur geprägt; internationale Akteure dominieren diese Beziehung – und behindern so *Local Ownership*. Des Weiteren sahen viele Gesprächspartner einen klaren Unterschied zwischen Missionen mit einem Exekutivmandat und reinen Unterstützungsmissionen ohne exekutive Funktionen für die Umsetzung von *Local Ownership*. Manche stellten sogar eine generelle Unvereinbarkeit eines Exekutivmandats mit dem Prinzip *Local Ownership* fest.

Dennoch konnten in beiden Missionen und beiden Themenbereichen einige so genannte „Best Practices“ identifiziert werden. Sowohl lokale, als auch internationale

Gesprächspartner erwähnten häufig *Co-Location* (räumliche Zusammenführung internationalen und nationalen Personals) als ein Schlüsselinstrument für gute Kooperation und gemeinsames Lernen. Ebenfalls hohen Zuspruch erhielten Programme zum Anwerben und Weiterbilden von nationalen Angestellten (*National Professional Officers*) in Friedenseinsätzen, auch wenn dabei immer die Gefahr der Abwanderung qualifizierter nationaler Experten (*Brain Drain*) besteht. Darüber hinaus versprachen sich viele Gesprächspartner einen Vorteil für die Umsetzung von Local Ownership, wenn stärker auf regionale Berater, Moderatoren und Institutionen zurückgegriffen würde; auch regionale Lösungsvorschläge und existierende regionale Traditionen (bspw. in der Rechtssprechung und Verwaltung) könnten hilfreich sein. Sehr häufig wurde von nationalen Gesprächspartnern kritisiert, dass internationales Personal zu wenig interkulturelle Kompetenzen besitzt und nur eine geringe Bereitschaft, auch von lokalen Partnern zu lernen. Dort, wo nationale Akteure Respekt fühlten und aktiv von ihren internationalen Partnern angehört wurden, war auch die lokale Teilhabe größer und nachhaltiger.

Executive Summary

The term “local ownership” has increasingly appeared in statements, guidelines, and reports of actors involved in peacebuilding. However, no coherent theories on local ownership exist as of yet and considerable unclarity prevails about what the concept implies in practice. How can a local population actually “own” a process such as peacebuilding which is predominantly driven from the outside? Up to now, the academic discussion on local ownership can be placed into the overarching theoretical discourse on peacebuilding processes which mirrors the wider debate between communitarian and liberal approaches in normative international relations theory. In the field, most international actors approach local ownership from a liberal stance. Their starting point is an international agenda that should be implemented in the local context. Local ownership on the strategic level is thus not primarily about local autonomy and choosing programs and priorities. It is rather about the search for approaches to adjust pre-defined and pre-designed international policies that local structures should carry out eventually. Especially in the two focus areas of the research project, i.e., rule of law and electoral administration, international agencies have produced a variety of blueprints for many programmatic areas. In contrast, communitarian or bottom-up approaches, which emphasize the need to create and nurture space for local actors and traditions to foster ownership, were founded less on the strategic level than on personal approaches to the working level of a mission.

Nevertheless, the practical implementation in the field can apply modes of interaction and mechanisms of cooperation between external and internal actors, modes which are conducive for local participation, acceptance, and ownership. The research was designed to generate new insights on this operational level of local ownership in peacebuilding processes. The project examined how the principle of local ownership has been applied in an executive peace operation with full governance powers (UNMIK in Kosovo) and a non-executive mission with mere assistance functions (UNMIL in Liberia). As the already mentioned conceptual ambiguity has also been found in the field, it was difficult to operationalize local ownership for the research in Liberia and Kosovo. Often, understandings of the term and conclusions had to be drawn indirectly, e.g. in enquiring how interaction worked.

In addition, the empirical findings of this study confirm that most peace operations address local ownership in their program work only toward a national government and its institutions and typically do not consider civil society and the wider public of a host nation. Most interactions between external and internal actors are dominated by an asymmetric relationship in favor of the internationals which often hinders ownership. Moreover, interviewees perceived a clear difference between executive and non-executive mandates of a mission for local ownership. Some went as far as claiming that an executive mandate could never be reconciled with the principle of local ownership.

Then again, best practices for local ownership were identified in both missions and each of the two focus areas. Internal and external interviewees often named co-location schemes as being a key for cooperation and mutual learning. Mission programs to hire and train National Professional Officers (NPOs) earned some praise, but also mixed feelings because of potential “brain drain” or other related problems. Regionalization, i.e. using regional advisors and facilitators in a mission, but also looking for regional best practices or useful traditions was also highlighted as a tool to strengthen local ownership.

Local interviewees often stated that the key problems for local ownership are the lack of intercultural skills and willingness to learn of international staff deployed to the field. Local participation and gradual ownership succeeded where national actors felt respected and heard by their international partners.

1. Research Objectives and Methodology

1.1 Background to the Project

Between January 2007 and September 2009, the Center for International Peace Operations (ZIF) implemented the research project “Local Ownership in Peacebuilding Processes. Approaches, Experiences, and Prerequisites for Success. An empirical study of peace operations in Kosovo (UNMIK) and Liberia (UNMIL)” which was funded by the German Foundation for Peace Research (DSF). The project was designed to generate empirical insights into the implementation of local ownership by international peace operations. For reasons of research economy, the project was focused exclusively on the implementation of local ownership in two key functional areas of peacebuilding processes: the (re-)establishment of rule of law and electoral administration. In order to establish whether the application of the concept of local ownership varies between missions with executive and non-executive mandates, one case study for each type was chosen. Whereas UNMIK in Kosovo had full governance powers for several years, UNMIL in Liberia fulfills an assistance role to the government of Liberia. The choice of UNMIK and UNMIL for this comparative study was based on the fact that elections and rule of law play a prominent role in the mandates of both missions.

The project was implemented in six phases: The first phase began with a review of academic literature on local ownership and related themes as well as on the selected case studies. This included policy papers, grey literature and official documents of the United Nations. An expert workshop, informed by working papers, concluded the first phase. The second phase included the operationalization of the concept local ownership for field research, the development of a research questionnaire for semi-structured interviews as well as the establishment of selection criteria for interviewees and their identification in the field. During the third phase, interviews were conducted with mission staff. The fourth phase concentrated on the analysis and interpretation of the information gained including a tentative formulation of results. Two international expert roundtables in New York and Berlin in June 2009 constituted the fifth phase of the project and led to a validation of the results. The sixth phase of the project consists of the final report, policy papers and articles for academic journals, the development of a training module as well as briefings for the German parliament, ministries, and the general public.

Altogether, three research trips were undertaken to each, Kosovo and Liberia, with stays between one and three weeks.¹ During the 2007 elections in Kosovo, one of the researchers participated in the Election Observation Mission of the Council of Europe. Moreover, ZIF conducted two workshops at the Kofi Annan International Peacekeeping Training Centre (KAIPTC) with single sessions on local ownership: the first on “Post-Conflict Peacebuilding” in Liberia in November 2007, the second on “Elections in Post-Conflict Countries” in June 2008.

1 Kosovo in September and November 2007 and in March 2008; Liberia in November 2007 and in April and November 2008.

1.2 Research Objectives and Questions

The ZIF project on “Local Ownership in Peacebuilding Processes” aimed to fill the existing research gap on local ownership by both analytically clarifying the concept and by exploring the details of its implementation in the field.² The project thus delivers:

- an input to the conceptual development of local ownership;
- an improved, empirically based understanding of the problems encountered in implementing the concept on the ground;
- the development of practical recommendations for both political decision-makers and personnel in peacekeeping missions.

Consequently, the key research questions were:

- a) What approaches for the implementation of local ownership do currently exist in peace operations?
- b) What lessons can be drawn from their success or failure to increase the sustainability of peacebuilding processes?

1.3 Methodological Approach

The project is an example of qualitative and inductive research. The research addressed a topic, local ownership, on which only limited empirical data is available and which lacks a coherent theoretical underpinning.

The project relied heavily on the results of semi-structured interviews in the field. Where applicable, project participants conducted discussion groups with local actors (such as election magistrates or parliamentarians in Liberia), group meetings with international actors (such as international employees working at UNMIK and other international agencies in Kosovo), or roundtables with representatives of both groups. Over 150 persons were interviewed in both countries split evenly between local and international actors (see table 1 for target groups).³

Table 1: Target groups

	International Actors	Local Actors
	<ul style="list-style-type: none">• International employees in peace operations who are implementing activities in the areas of Rule of Law and Elections (operational level)• International employees in peace operations (strategic level)• Employees of other IOs and INGOs in the field• Employees of think tanks with regional knowledge (ICG, IFES, etc.)	<ul style="list-style-type: none">• Local representatives of politics or society who deal with Rule of Law or Elections on the operational level• Local representatives of politics or society (strategic level)• Local employees in peace operations• Local experts (think tanks, NGOs)• Local journalists

2 See ZIF research proposal. W.Hansen et al., “Ansätze, Erfahrungen und Erfolgsbedingungen,” in Local Ownership in Peacebuilding Processes in Failed States, Berlin: 2005, pp. 16-22.

3 See Annex for a complete list of interviewees. Some interviewees were met and interviewed two or three times on different trips.

The distinction originally made by the authors between “local” and “international” actors proved to be difficult to maintain with regard to National Professional Officers (NPOs) employed by international missions. Though qualified by the authors as local actors (see table 1), they tended to see themselves as part of the international mission, often referring to their compatriots as their local counterparts. A further problematic category, particularly in Liberia, but to some extent also in Kosovo, consisted of members of diaspora communities who had returned after the end of the armed conflicts. Often perceived as “outsiders” by the local population, they frequently voiced positions that fell between those of the international and local interviewees.

To address these complex issues, some researchers have suggested utilizing the distinction between “external” and “internal” rather than “international” and “local” actors.⁴ However, such a distinction relies on a subjective (self-) classification by either the interviewee or the researcher. The categories “international” and “local” as outlined above, although far from ideal, at least have the advantage of being unambiguous and were thus retained by the authors.

The interviews themselves were semi-structured, between 30 to 90 minutes long and based on the issue areas of a research questionnaire which had been developed in an expert workshop prior to the field research.⁵

The project closed its final research phase with two validation workshops in New York and Berlin in June 2009 where results and recommendations were presented to an audience consisting of representatives of UN agencies and departments (DPKO, DPA, UNDP, etc.) as well as practitioners from the field, academics, and long-term advisors of the project. Their feedback was included in the final report.

4 H. Reich, “Local Ownership in Conflict Transformation Projects. Partnership, Participation or Patronage?” Berghof Occasional Paper Issue 27, Berlin: 2006.

5 See annex for a list of topical areas for the research questionnaire.

2. Defining Local Ownership

The term “local ownership”⁶ has increasingly appeared in statements, guidelines, and reports of actors involved in post-conflict peacebuilding. In February 2011, the United Nations published the key report on “Civilian capacity in the aftermath of conflict” which highlights four main principles to improve the performance of the UN in post-conflict peacebuilding: ownership, partnership, expertise and nimbleness. The report states that a “primary task of the international response is to identify, protect, nurture and support national capacities”.⁷

However, as Pouligny observed, “the prominence of the phrase is not matched by a corresponding depth of analysis, explanation or scrutiny in policy statements. The different agencies have been also slow in translating these commitments into practice.”⁸ No coherent theories on local ownership exist as of yet and considerable unclarity prevails about what the concept implies in practice and how a local population can actually “own” a process such as peacebuilding which is clearly driven from outside.⁹

Nevertheless, first attempts were undertaken to define local ownership in the context of peacebuilding processes. According to Narten, “[l]ocal ownership is the process and the final outcome of the gradual transfer to legitimate representatives of the local society, of assessment, planning and decision-making functions, the practical management and implementation of these functions, and the evaluation and control of all phases of statebuilding programs, with the aim of making external peace- and statebuilding assistance redundant.”¹⁰ This definition clearly reflects the ambiguity of the current debate on local ownership. On the one hand, it assumes that external actors should control peacebuilding processes, on the other hand, it calls for the involvement of local actors in the assessment and planning phases of projects.

Accordingly, the academic discussion on local ownership can be placed into an overarching theoretical discourse on peacebuilding processes which mirrors the wider debate between communitarian and liberal approaches in normative international relations theory.¹¹ The communitarian vision of peacebuilding stresses the role of the local society: Peacebuilding should “nurture and create the political, economic and social space within which indigenous actors can identify, develop and employ the resources necessary to build a peaceful, just and prosperous society.”¹² In contrast, the liberal view on peacebuilding emphasizes the importance of global norms, in particular human rights, of good

6 The United Nations and other sources frequently use the term “national ownership” in documents and guidelines. No clear definition of national ownership or distinction from the term “local ownership” exists as of yet. Instead, the term is mostly used congruently with the term “local ownership” in defining not only national governments, but “national stakeholders, inter alia, government officials, justice and other rule of law officials, national legal professionals, traditional leaders, women, children, minorities, refugees and displaced persons, other marginalized groups and civil society” as partners for local ownership. United Nations, “Guidance Note of the Secretary-General: UN Approach to Rule of Law Assistance,” 2008, p. 3. The authors thus decided to use only the term “local ownership” both for the interviews in the field as well as for this report. Since 2011, the UN has started to use the term “ownership” without “local”.

7 United Nations, “Civilian capacity in the aftermath of conflict: Independent report of the Senior Advisory Group”, 2011, p.5.

8 B. Pouligny, “Supporting Local Ownership in Humanitarian Action,” GPPI Policy Paper No. 4, Berlin: 2009, p. 6.

9 S. Chesterman, “Ownership in Theory and in Practice: Transfer of Authority in UN State Building Operations,” in *Journal of Intervention and Statebuilding* 1 (2007) 1: p. 7.

10 J. Narten, “Dilemmas of Promoting Local Ownership: The Case of Postwar Kosovo,” in *The Dilemmas of Statebuilding. Confronting the Contradictions of Postwar Peace Operations*, ed. R. Paris and T. Sisk, London: Routledge, 2009, p. 254.

11 T. Donais, “Empowerment or Imposition? Dilemmas of Local Ownership in Post-Conflict Peacebuilding Processes,” in *Peace & Change* 34 (2009) 1: p. 6.

12 K. Bush, “Beyond Bungee Cord Humanitarianism: Towards a Developmental Agenda for Peacebuilding,” in *Canadian Journal of Development Studies* (Special Issue, 1996): p. 86.

governance, and the liberal market economy, which local structures need to adopt.¹³ According to Donais, the “concept of local ownership is the core issue around which these two perspectives diverge”¹⁴ in peacebuilding processes.

In most cases, however, international actors approach local ownership from a liberal stance. Their starting point is an international agenda that should be implemented in the local context. Local ownership is not primarily about local autonomy and choosing programs and priorities. It is rather about the search for strategies to adjust pre-defined and pre-designed international policies that local structures should carry out eventually.¹⁵ It has been argued that local ownership should be seen as the end and not as the means of post-conflict peacebuilding. Existing conditions prevailing on the ground as well as political or strategic objectives of the international community would prevent the significant input of local actors in relevant decision-making processes.¹⁶

Especially in the fields of rule of law and electoral administration, international agencies produced a variety of blueprints for many programmatic areas. They carry so much weight that local actors cannot change the content, but can only interpret or adapt such blueprints to local demands and environments. These blueprints are based on dominant liberal principles in peacebuilding which are “non-negotiable principles about democratic rule, human rights, liberal economic policy, and rule of law.”¹⁷ In addition, donors and international experts often follow a model of social engineering that sees local knowledge and structures as obstacles rather than as entry points for peacebuilding.¹⁸ The practical consequences of such approaches even influence the personal relationships of external and internal actors in peacebuilding and create images, prejudices, and clichés that are hard to overcome.

Even though liberal views on local ownership dominate the debate on peacebuilding on the strategic level, the operational level still can be shaped in a more communitarian, bottom-up practice to enable ownership. Bush’s image of the “nurturing space” for indigenous actors has been explored by Reich who suggests the concept of “learning sites” to foster local ownership on the actual working level.¹⁹ Such learning sites, for example joint workshops or retreats at different stages of a project cycle, could lead to a more equal partnership between external and internal actors. In order to succeed, both sides have to be committed to mutual learning processes.²⁰

Intervention and interaction: asymmetric relationships?

Working toward local ownership constitutes an integral element of post-conflict peacebuilding. In particular during extended and highly intrusive peace operations, there is a danger of abusing the rhetoric of local ownership for political purposes. On the one hand, the concept can be invoked to downplay the intrusiveness of the intervention and to justify a continuing international presence. On the other hand, the concept can be used as an argument in support of a premature departure of international staff once mission fatigue has set in and international engagement is needed in another post-conflict area.

13 Donais, 2009, p. 6.

14 Ibid.

15 Ibid.

16 S. Chesterman, *You, the People. The United Nations, Transitional Administration, and State-Building*, Oxford and New York: Oxford University Press, 2003, p. 4.

17 O. J. Sending, “Why Peacebuilders Fail to Secure Ownership and Be Sensitive to Context,” NUPI Working Paper 755, 2009, p. 8.

18 Ibid., pp. 8 et seq.

19 Reich, 2006, pp. 23-25.

20 Ibid., pp. 26-30.

External actors might also see local ownership as a tool that allows them to give the impression of taking into account the wishes of the local population, while in fact continuing to implement their agendas without local involvement. This reveals the core problem of the approach: How can transformation processes that are internationally designed and implemented ever be truly “owned” by local actors? The term “local ownership” distracts from the fact that international interventions tend to be characterized by an asymmetric relationship between external and internal actors.²¹ In most cases, donors and international organizations have shaped the agenda, assessed the situation, and designed the programs long before there is any local involvement. Even if project objectives subsequently aim for local ownership, for example by providing project benchmarks and by prescribing participatory program implementation, the asymmetric relationship is likely to prevent the establishment of local authority and responsibility.²² Instead of appealing to local ownership, an in-depth discussion of the interaction between external and internal actors might be needed as well as the search for project frameworks that can counter existing asymmetrical relationships.

A further danger is that the over-use of the term “local ownership” by international actors can lead to unrealistic expectations of full local control among their local partners. These are bound to be disappointed. Local ownership may also lead external experts to believe that they are able to steer and control very complex processes on the local level.²³ In addition, there exists another asymmetry between internal and external actors with respect to the available knowledge on local systems and relations, an asymmetry which local actors might exploit by refusing to contribute their knowledge and capacities to the international peacebuilding effort. Generally, the patterns and forums of interaction between internal and external actors as well as their perceptions of one another are fundamental for local ownership.

Choosing local partners for local ownership

Choice of local partners in the field has attracted much attention in academic research.²⁴ One question is whether only elites²⁵ or also the general public should be considered as local partners for a mission. International attempts to work toward local ownership have thus far concentrated on elites and government institutions. Referring to experiences with the UN administration in Timor, Chopra and Hohe claim that “the subculture of UN missions, their leadership, and much of their staff, was rooted in a diplomatic habit, relating institution to institution or at most talking to a minority elite.”²⁶ They call this an “asocial form of alienation” which can be disastrous for international missions’ capacities to assist or govern in a post-conflict situation.²⁷ This predisposition is sometimes accompanied by a tendency to regard the local population as a uniform group. Moreover, most international staff members are deployed in urban areas and have very limited contact with the rural population. But a broad implementation of a local ownership agenda needs to take into

21 Ibid., pp. 6-8.

22 Ibid.

23 See T. Pietz and L. von Carlowitz, *Local Ownership in Peacebuilding Processes in Failed States*, ZIF Report, 2007, p. 8.

24 See, among others, A. Hansen, “Local Ownership in Peace Operations,” in *Local Ownership and Security Sector Reform*, ed. T. Donais, DCAF Yearbook 6, 2008, pp. 43-45.

25 Elites in post-conflict societies include the key political, religious, and military leaders involved in a conflict. These people are often the highest leaders of the government and/or opposition movements. In most cases, they represent a few key actors within the broader conflict setting.

26 J. Chopra and T. Hohe, “Participatory Intervention,” in *Global Governance* 10 (2004) 3: p. 290.

27 Ibid.

account demands of non-elite actors and to consider community-based knowledge found in remote rural areas.

Not enough attention has been paid in the past to questions of legitimacy and accountability of local counterparts. External actors often select local partners whose legitimacy and accountability are highly questionable. This is in part caused by the breakdown of formal structures which is typical of post-conflict societies. In addition, there is an understandable tendency among external actors to look for like-minded partners, regardless of legitimacy and accountability. Thus internationals often choose local counterparts solely on the basis of their English-language skills, often acquired through a Western education or time spent abroad in Western countries. There is a lack of competence and knowledge of international missions to identify adequate local partners in most post-conflict societies. Peace operations should concentrate on selecting local counterparts on the basis of who could serve as effective partners in given peacebuilding processes.

Another problem of partners and local ownership is constituted in the debate on “spoilers”. The term is politically loaded, it can “represent normative judgments that give a great deal of agency to third party custodians of a peace process.”²⁸ The difference between “spoiling” and legitimate but annoying political dissent is fleeting. And a reform partner in one context may be a spoiler in another.

Newman and Richmond provide a working definition describing spoilers and spoiling as “groups and tactics that actively seek to hinder, delay, or undermine conflict settlement through a variety of means and for a variety of purposes.”²⁹ Spoilers can be both insiders and outsiders to the peace process. If they constitute insiders – the very elite the international mission is cooperating with – then applying the key principle of local ownership runs the risk of involving local partners who are, or were, part of the conflict.³⁰ Keeping such actors in positions of power and influence might not contribute to sustainable peace.³¹ On the other hand, “increased local ownership and sensitivity may strengthen the legitimacy of the reform effort, thereby undermining the spoilers’ platform.”³² Generally, “whomever they [the international actors] endorse as the legitimate counterpart, the choice is highly political and will have profound implications for the future political development of the host state or territory.”³³

Dilemmas of local ownership

Despite the fuzziness of the concept of local ownership, Narten³⁴ and also Hansen and Wiharta³⁵ developed first typologies of key dilemmas for the implementation of local ownership in peacebuilding processes. Based on their work, the following overarching dilemmas were formulated for the further operationalization of the concept:

28 E. Newman and O. Richmond, “The Impact of Spoilers on Peace Processes and Peacebuilding,” UNU Policy Brief No. 2, 2006, p. 5.

29 Ibid., p. 1.

30 Ibid., p. 2.

31 See E. Scheye, “Transitions to Local Authority,” in *Executive Policing: Enforcing the Law in Peace Operations*, ed. R. Dwan, SIPRI Research Report No. 16, 2002, p. 104.

32 A. Hansen et al., “The Transition to a Just Order – Establishing Local Ownership after Conflict. A Practitioners’ Guide,” FBA Handbook Series No. 2, Stockholm: 2007, p. 25.

33 A. Hansen, “Local Ownership in Peace Operations”, in *Local Ownership and Security Sector Reform*, ed. T. Donais, DCAF Yearbook 6, 2008, p. 44.

34 J. Narten, “Post-conflict Peacebuilding and Local Ownership: A Case Study on External-local Dynamics in Kosovo under UN Interim Administration,” paper presented at the International Studies Association Conference in Chicago, March 3, 2007, pp. 16 et seq., available at <<http://64.112.226.70/one/isa/isa07/>> (last visited April 9, 2010).

35 A. Hansen and S. Wiharta, *The Transition to a Just Order after Conflict*, Policy Report, draft, 2006.

- a) Intrusiveness dilemma: Overly intrusive policy- and decision-making by external actors tends to alienate local stakeholders. Less intrusive measures may not suffice to stabilize a post-conflict situation.
- b) Dependency dilemma: Establishing sustainable local structures and capacities requires long-term external commitment. Yet long-term international involvement and assistance tend to create local dependencies on external support.
- c) Transition dilemma: International peacebuilding activity should cooperate with local actors and should be based on existing structures and traditions from the very beginning. However, traditional power structures and mentalities often cause or contribute to the outbreak of a given conflict. External peacebuilders thus face a dilemma in selecting local partners. They should be cautious in relying on traditional elites and try to transform their attitudes and behavior.

The above mentioned dilemmas are well-suited to support the analysis of the difficulties of putting the concept of local ownership into practice. Together with the discussion on defining local ownership and on the patterns of interaction between external and internal actors, they sum up the current state of the debate on local ownership.

3. Ownership in Practice: Rule of Law

3.1 Two Conflicting Interests in International Rule of Law Assistance

In his 2004 report on the rule of law and transitional justice, the UN Secretary-General emphasized the importance of restoring and respecting rule of law for post-conflict peacebuilding and underlined the need to reach local ownership in this context.³⁶ In general, new institutions and legal systems are only perceived as legitimate if they have been established and adopted in consideration of local structures, norms, and traditions. They can only function effectively and sustainably if local actors regard them as useful and take over responsibility for managing them.

But the Secretary-General also pointed out a conflicting interest in international rule of law assistance: the promotion of international norms and standards including international human rights law and criminal law.³⁷ Often, it is the very “local owners” of rule of law-relevant institutions who are responsible for human rights violations and the deplorable state of justice and security structures.³⁸ If post-conflict societies violate these norms, the international community may intervene and reform relevant domestic systems and institutions without the will of the local government and other pertinent actors. No guidance is provided in the above mentioned report of the Secretary-General on how the two potentially conflicting interests of promoting international norms and standards and of facilitating local ownership are to be prioritized or reconciled. In fact, it rests upon the specific post-conflict peace operation to strike the right balance.³⁹

It makes a significant difference in this context whether a peace operation has an executive mandate like UNMIK or a non-executive mandate like UNMIL. For the purpose of implementing Security Council Resolution 1244, UNMIK was empowered to issue legislative acts and “may change, repeal or suspend existing laws to the extent necessary for the carrying out of [its] functions, or where existing laws are incompatible with the mandate, aims and purposes of the interim civil administration.”⁴⁰ These provisions gave UNMIK a far-reaching executive and legislative mandate that stands in contradiction to the notion of local ownership. However, the latter principle comes into play indirectly as UNMIK is obliged to respect the applicable domestic law “insofar as it does not conflict with internationally recognized human rights standards or with previous UNMIK regulations.”⁴¹ Further, local ownership is implied in UNMIK’s mandate to establish self-governing institutions and to carry out corresponding capacity-building.⁴²

In contrast, UNMIL only has a mandate to assist the Liberian government in reestablishing national authority, including a functioning administrative structure, and “in developing a strategy to consolidate governmental institutions, including a national legal framework and judicial and correctional institutions.”⁴³ With respect to human rights, UNMIL, unlike

36 United Nations, Report of the Secretary-General, *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, UN Doc. S/2004/616, August 23, 2004, paras. 64 (a) and 17.

37 Ibid., para. 9.

38 Cf. S. Chesterman, “Ownership in Theory and in Practice: Transfer of Authority in UN Statebuilding Operations,” in *Journal of Intervention and Statebuilding* 1 (2007) 1: p. 7; E. Scheye and G. Peake, “Unknotting Local Ownership,” in *After Intervention: Public Security Management in Post-Conflict Societies: From Intervention to Sustainable Local Ownership*, ed. A. H. Ebnöther and P. H. Fluri, Vienna and Geneva, 2005, p. 236.

39 S. Vig, “The Conflictual Promises of United Nations’ Rule of Law Assistance: Challenges for Post-Conflict Societies,” in *Journal of International Peacekeeping* 13 (2009) 1-2: p. 155.

40 United Nations, Report of the Secretary-General on the United Nations Interim Administration in Kosovo, UN Doc. S/1999/779, July 12, 1999, para. 39.

41 Ibid., para. 36.

42 Ibid., paras. 79-81.

43 Security Council S/Res. 1509, para. 3 (p) and (q), September 19, 2003.

UNMIK, is not responsible for the protection of human rights, but merely required “to contribute towards international efforts to protect and promote human rights [...] within UNMIL’s capabilities and under acceptable security conditions [...]”⁴⁴ Executive and legislative responsibility rests with the Liberian government. Thus local ownership can be presumed in principle. However, the question of local ownership remains an issue in the light of potential domination of international expertise or possible conditionality of international aid.

3.2 Scope of Rule of Law-related Research

The United Nations defines the rule of law as “a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.”⁴⁵ Irrespective of the necessity to apply a comprehensive approach to the rule of law, it is the “justice triad” consisting of the police, courts, and prisons that receives most attention in post-conflict rule of law assistance.⁴⁶ Underling the close linkage between rule of law and the justice system, the UN Secretary-General stated that the creation of an independent, impartial, and multiethnic judiciary was the “guarantor” of a “genuine rule of law.”⁴⁷

Research economy required that this study focuses on rule of law in the narrow sense, i.e., the justice system. As the judiciary lies at the heart of the justice system, interviews primarily focused on judicial institution-building, i.e., the appointment of judges and prosecutors; justice-related lawmaking, including criminal law and traditional justice; and capacity-building activities in the justice sector. An examination of international policing and police reform as well as of prison management and prison reform was deemed to go beyond the scope of the study. The police service and the correctional system have thus not been made research topics although they constitute essential components of post-conflict rule of law programs.

3.3 Anticyclical Justice Strategies

Approaches to rule of law are closely linked to governance as such. It is therefore surprising to observe that in terms of local ownership the international engagement in justice reform was anti-cyclical to the general governance strategy of both missions. In Kosovo, UNMIK governance was in principle geared toward more local ownership by successively moving from absolutist emergency-ruling in the immediate post-conflict phase in 1999; to the attempt of joint governance by the Joint Interim Administrative Structure (JIAS) from late 1999 to early 2001; to a power-sharing arrangement with Kosovo’s

44 Ibid., para. 3 (l).

45 Ibid., para. 6.

46 J. Stromseth, D. Wippman, and R. Brooks, *Can Might Make Rights? Building the Rule of Law After Military Interventions*, Cambridge: Cambridge University Press, 2006, p. 184. For a sound overview of different agendas underlying international rule of law programs, see A. Hurwitz, “Civil War and Rule of Law: Toward Security, Development, and Human Rights,” in *Civil War and the Rule of Law. Security, Development, Human Rights*, ed. A. Hurwitz, London: Boulder, 2008, pp. 5-9.

47 Cited in C. Bull, *No Entry without Strategy: Building the Rule of Law under UN Transitional Administration*, Tokyo, New York and Paris: United Nations University Press, 2008, p. 53.

Provisional Institutions of Self-Government (PISG) formed by the Constitutional Framework in 2001; to the increased transfer of reserved powers to the PISG with UNMIK assuming a monitoring role from 2006–2007 onward.⁴⁸

Kosovo's justice sector, however, went the opposite way: Initially, there was much local ownership in the pivotal judicial appointment process, in adjudication as well as concerning the choice of the applicable law.⁴⁹ But from 2000 onward, international control significantly increased by introducing a body responsible for the appointment and removal of judges and prosecutors – the Kosovo Judicial and Prosecutorial Council – with an international voting majority; by inserting an international judiciary that could overrule its Kosovar counterpart in war crimes and other politically sensitive cases; by establishing a new Pillar I with the objective to take a hard-line approach in maintaining law and order; and by making use of a legislative competence exclusively reserved for the Special Representative of the Secretary-General (SRSG).⁵⁰ Only from 2005 onward, in response to the March riots, did UNMIK start transferring the most significant justice-related responsibilities to a newly created Kosovo Judicial Council and Ministry of Justice.

In Liberia, the relationship between UNMIL's general governance strategy and the approach taken in the justice sector was somewhat similar. Given the total breakdown of public security after the civil war, there was increased UNMIL involvement from the beginning of the mission in 2003 until the end of the Transitional Government in early 2006.⁵¹ The international military and police played – and still play – a significant role in maintaining law and order. One UNMIL staff member even argued that UNMIL should have been set up as an executive mission.⁵² However, after the elections and the formation of the new government, UNMIL's role shifted from policy initiation and implementation to assistance and support. Despite UNMIL's increased focus on post-conflict rule of law, the judicial sector was neglected for various reasons including a lack of funds as well as personnel problems within UNMIL and the Liberian government.⁵³ Only in 2007–2008, when UNMIL already started thinking about scaling down, did justice reform become a priority – efforts were stepped up to push the main local actors to develop a comprehensive rule of law strategy, to increase judicial efficiency, and to fight harmful traditional practices.⁵⁴

3.4 Basic Understandings of Local Ownership

Asked what they understood the meaning of local ownership to be, many interviewees commented on local ownership as both a process and an outcome. They found that local

48 For an overview of the governance structures before the Constitutional Framework see L. von Carlowitz, "UNMIK Lawmaking between Effective Peace Support and Internal Self-Determination," in *Archiv des Völkerrechts* 41 (2003) 3: pp. 374-377; for more focus on the municipal level see D. Roszbacher, "Friedenssicherung – am Beispiel der Interimsverwaltung der Vereinten Nationen im Kosovo (UNMIK). Die Zivilverwaltung als neue Form der Friedenssicherung," Münster: Univ. Diss., 2003, pp. 179-203, 233-254; on the division of powers under the Constitutional Framework see C. Stahn, "Constitution without a State? Kosovo under the United Nations Constitutional Framework for Self-Government," in *Leiden Journal of International Law* 14 (2001) 3: pp. 553-560.

49 Cf. H. Strohmeier, "Collapse and Reconstruction of a Judicial System: The United Nations Missions in Kosovo and East Timor," in *American Journal of International Law* 95 (2001) 1: pp. 51-52, 58-59.

50 D. Zaum, *The Sovereignty Paradox: The Norms and Politics of International Statebuilding*, Oxford: Oxford University Press, 2007, p. 149. For a general overview of the developments in the justice sector see C. Rausch, "From Elation to Disappointment: Justice and Security Sector Reform in Kosovo," in *Constructing Justice and Security after War*, ed. C. T. Call, Washington, DC: United States Institute for Peace Press, 2007, pp. 271-311.

51 For an overview of UNMIL's security-related involvement see M. Malan, *Security Sector Reform in Liberia: Mixed Results from Humble Beginnings*, Carlisle: Strategic Studies Institute, 2008, pp. 46-66.

52 Interview with UNMIL official, Monrovia, November 2008.

53 T. Blume, "Implementing the Rule of Law in Integrated Missions: Security and Justice in the UN Mission in Liberia (UNMIL)," in *Journal of Security Sector Management* 6 (2008) 3: pp. 5-8.

54 Interviews with UNMIL officials, Monrovia, November 2008.

ownership aims to achieve local appropriation of international ideas and systems as well as a local takeover of institutional responsibilities. Besides a gradual handover of planning and management competencies for newly created institutions, interviewees pointed to local participation in relevant decision-making processes and sufficient capacity-building as the main means to achieve a local “buy-in” to international interventions.⁵⁵

The approaches to achieve local ownership significantly differ depending on whether the mission has an executive mandate or not. As UNMIK bore full governance responsibility in Kosovo, it was much more preoccupied with regulatory processes and executive decision-making than the assistance mission UNMIL, which generally placed more emphasis on monitoring, technical advice, and training of relevant professionals. Thus it is not surprising that, with respect to the means directed at local ownership in the justice sector, most interviewees in Kosovo focused on various aspects of transfer of responsibilities and local participation in regulatory processes whereas in relative terms there was more emphasis on capacity-building including legal education in Liberia.

When describing their experiences with local ownership, most interview partners commented around three broad themes: institution-building (with special focus on transfer of responsibilities into local hands as well as on issues relating to local acceptance and international intervention), local participation, and capacity-building.

3.5 Institution-building, Local Acceptance, and International Intervention

In many post-conflict situations, the vetting and (re-)appointment of judges and prosecutors is one of the most urgent and important activities in justice reform. In particular in Kosovo, the judicial appointment process is an interesting case in terms of judicial institution-building and subsequent transfer of responsibility. Initially in 1999, local majority voting in the UNMIK bodies was responsible for the selection of judges and prosecutors (i.e., the Joint Advisory Council on Judicial Appointments and the Advisory Judicial Commission). In 2001, however, the Kosovo Judicial and Prosecutorial Council supplanted this system and gave its international members a majority over their Kosovar counterparts. Only in 2006 appointment responsibility was returned to the Kosovars (i.e., the Kosovo Judicial Council), but combined with an imposed reappointment and vetting process to ensure judicial quality and to transform existing temporary appointments into permanent ones.

On the institutional level, one can notice a gradual transfer of responsibilities into local hands – or in other words, a gradual movement toward local ownership. Yet many interviewees argued that local ownership remains incomplete as long as UNMIK retains ultimate authority.⁵⁶ They claimed that the notion of local ownership cannot be reconciled with an executive mandate. However, this finding is qualified by the fact that no matter whether there was formal international dominance, the actual appointments were all based on local recommendations following a transparent appointment process.⁵⁷ In fact, no case is known where any judge or prosecutor was appointed against the will of the local interview and selection panels.

The conclusion can be drawn that most Kosovars do regard Kosovo’s judiciary as theirs, although it was appointed by the quasi-absolutist SRSG and although it is heavily criticized for its inefficiency and corruption.⁵⁸ There is local concern with the judiciary, which is why

55 Interview with UNMIK legal advisor, Pristina, March 2008.

56 Interviews with EULEX and OSCE officials, Pristina, March 2008.

57 Interviews with chief prosecutor, Supreme Court Judge, and chairman of Chamber of Advocates, Pristina, March 2008.

58 Interview with president of Association of Judges, Pristina, March 2008.

both Kosovo's politicians and public appreciate the reappointment process, although it was one of UNMIK's last structural interventions on the basis of the much disliked reserved powers.⁵⁹

In Liberia, on the other hand, there is generally much less local interest in the justice system, although local ownership cannot be questioned on the basis of undue international influence or domination. UNMIL gave some limited assistance in the vetting and appointment of the judiciary, but the Liberian Government and Bar Association clearly maintained responsibility and control over the process.⁶⁰ Liberian institutions and politicians generally stand behind the system and fight for their interests in it.

However, with respect to the acceptance of newly built institutions, one of the main questions is: Who is the relevant local counterpart? When it comes to judging local ownership of the newly appointed judiciary, is it local politicians, experts, and stakeholders or the general public that matter? Does local ownership exist if local politicians and stakeholders are content with the establishment of a judicial appointment body in which they have the majority? Or should one only speak about local ownership if the majority of the population has sufficient faith in the judiciary and actually uses it?

The fact that 80 percent of the Liberian territory and people are left outside the formal justice system makes local ownership in Liberian justice reform very doubtful. The majority of the population does not have access to the courts and prefers to settle its disputes traditionally.⁶¹ With respect to the Liberian judiciary, it is therefore more accurate to speak of "national ownership" rather than "local ownership." Accordingly, some interviewees found that (real) local ownership denotes ownership by the people and on the local level, whereas national ownership relates to the state and its institutions on the national level.⁶²

To foster local ownership in this sense, it can be argued that UNMIL should have been more interventionist and should have increased efforts to ensure access to justice, to fight judicial corruption and inefficiency, to invest in legal education, and to work toward a fairer distribution of resources between Liberia's urban and rural populations.⁶³ Given the lack of interest in such measures by large parts of the Americo-Liberian elite, the question should be posed whether an executive mandate would have helped UNMIL to promote (real) local ownership in the justice sector.

When and on what grounds did the two missions step into the respective domestic systems against the will of most/many politicians and stakeholders? In Kosovo, as mentioned, there was much local autonomy in the justice sector at the outset. But when it became clear that this policy led to ethnic bias and unfair trials, to bad-quality judgments and case backlogs, to corruption and security threats, UNMIK intervened and inserted the international judiciary with jurisdiction for war crimes and high-profile cases relating to ethnic discrimination and organized crime.⁶⁴

With its executive mandate, UNMIK could easily step in and argue that the situation was so intolerable that local ownership could not be granted. Focusing less on politicians and judicial stakeholders and more on the general public, UNMIK could also justify its

59 Compare interviews with chief prosecutor, chairman of Chamber of Advocates, and UNMIK official, Pristina, March 2008.

60 Interviews with local and international UNMIL officials, November 2008.

61 L. von Carlowitz, "Local Ownership and the Rule of Law in Liberia," in *Law in Africa* 11 (2008) 1; pp. 77-78.

62 Interviews with UNMIL officials and Solicitor General, Monrovia, November 2008.

63 These measures were demanded by several representatives of the traditional communities during a ZIF roundtable on "Local Ownership and the Rule of Law in Liberia: Experiences with Justice and Law Reform," held in Monrovia on November 13, 2008.

64 Cf. M. E. Hartmann, *International Judges and Prosecutors in Kosovo: A New Model for Post-Conflict Peacekeeping*, USIP Special Report 112, October 2003, pp. 4-7.

intervention on the basis of local ownership: Some UNMIK officials, for example, argued that Kosovars would generally only appreciate and “own” the judicial system if it worked efficiently and impartially.⁶⁵ In other words, a local ownership strategy would require increased international intervention for a transitional period.

The assistance mission UNMIL could not do this. Lacking leverage over the Liberian government, it could only talk and “negotiate its way through.”⁶⁶ In many areas of concern it tried to persuade the relevant Liberian officials to come together and initiate necessary policy changes. Lacking in funds, it could not do the necessary capacity-building work to increase access to justice, in particular in rural areas. Only in a few cases of obvious and grave human rights violations, it strongly supported – against the will of traditional structures – “progressive” initiatives such as a new Rape Law which raised the age of consent to 18 years or a public campaign against harmful traditional practices involving witchcraft and trial by ordeal.⁶⁷

3.6 Local Participation and Legal Reform

The second main issue is local participation in relevant decision-making processes. In particular for executive missions, local participation in legislative efforts is seen as one of the main means to achieve local ownership of new systems or institutions. Generally, most interviewees found that effective local participation should start as early as possible, i.e., during the planning phase and should not be just formal and perfunctory. To be meaningful, local and international partners should consult on an equal footing requiring sufficient language services and flexibility in procedures.⁶⁸ Furthermore, international consultants should know the local legal traditions and should refrain from pushing through international blueprints.⁶⁹

However, UNMIK practice often looked quite different. As Kosovo’s judicial sector largely fell into UNMIK’s reserved power domain, there was hardly any Kosovar participation in the drafting processes for most justice-related UNMIK regulations. Although the Constitutional Framework was proclaimed as a measure to increase local responsibility and ownership, in reality locals lost their participatory rights in the justice sector.⁷⁰

Effective and comprehensive local participation in UNMIK lawmaking was difficult for numerous reasons.⁷¹ Among them was a lack of adequate translation and interpretation resources. Legal experts needed to work simultaneously in Albanian, Serbian, and English, and qualified translators and interpreters were difficult to find. Not only did they ideally need to be fluent in the three languages, but they should also have had a legal background. Candidates with such qualifications hardly existed and were difficult to attract. Since UNMIK’s central Language Unit was chronically overloaded with work, significant delays in the finalization of official translations of regulations were not uncommon.

Differing legal approaches of the involved international and domestic actors were a further factor that made fruitful cooperation difficult. Although UNMIK was in principle obliged to

65 Interviews with international judge and UNMIK official, Pristina, March 2008.

66 Interview with UNMIL official, Monrovia, November 2008.

67 Interviews with UNMIL officials and with Solicitor-General, Monrovia, November 2008.

68 Interviews with UNMIK officials, Pristina, October 2007 and March 2008; telephone interview with former UNMIK official and consultants, September 2008 and April 2009.

69 Interview with OSCE official, with NCSC consultant and with former PISG staff members, Pristina, October 2007 and March 2008.

70 Cf. Rausch, 2007, p. 285; D. Marschall and S. Inglis, “The Disempowerment of Human Rights-Based Justice in the United Nations Mission in Kosovo,” in *Harvard Human Rights Journal* 16 (2003): p. 130.

71 For a comprehensive overview see von Carlowitz, 2003, pp. 378-386.

respect the domestic law and legal traditions, it found it difficult to do so because its staff lacked for the most part sufficient knowledge of the local languages, structures, and legal systems.⁷² UNMIK employed numerous international jurists whose legislative approaches significantly differed from domestic regulatory activity in many countries. Legislation drafted by international lawyers tends to use unspecific terms and to allow for flexible implementation. This contrasts sharply with Kosovo's civil law-based system which is influenced by a socialist heritage and relies on detailed codification in the administrative area. In a similar way, many of the international consultants – particularly those from common law systems such as the United States and the United Kingdom – faced serious challenges in trying to match their legal language to the Kosovar legal culture.⁷³ Finally, problems also resulted from the dual role of the international staff as, on the one hand, international civil servants and, on the other, as temporary quasi-government officials. Uncertainties resulted not only from the fact that UN staff is usually not trained in governmental activities such as legislative drafting or building state institutions. The dual role also entailed potentially conflicting responsibilities and UNMIK staff was left without guidance on how to reconcile or prioritize them.⁷⁴

Despite these difficulties, UNMIK tried to involve local stakeholders seriously in two justice-related legislative undertakings. The first began in the early stages of the mission and concerned the drafting of a new Provisional Criminal Code and Provisional Code of Criminal Procedure. The second project coincided with the transition process toward increased Kosovar responsibility in the justice sector and concerned consultations relating to a new Law on Courts and Law on Prosecutors and, in a wider sense, also to the UNMIK regulation establishing the Kosovo Judicial Council. Both drafting projects included local stakeholders (mostly experts, not politicians) as a driving force from the outset.⁷⁵ Consultants did not unduly dominate the process. Working groups did convene for several years continuously. They were endowed with sufficient language support and with extensive comparative expertise on different legal and judicial systems.⁷⁶

In particular, the Provisional Code of Criminal Procedure has been criticized for various reasons including its use of ambiguous language from international legal instruments – which does not fit the civil law context and for which no commentaries exist – and for introducing new principles without providing for the necessary implementing legislation.⁷⁷ Moreover, criticism was raised that the code did not work well in practice because it unduly mixes civil and common law principles and applies unrealistically high standards to Kosovo's underdeveloped justice system.⁷⁸

One international judge stated that the two codes were the best examples of local ownership, but also caused huge problems within the local legal system.⁷⁹ Certainly, many Kosovar politicians and legal professionals like the codes despite their implementation challenges because they represent an important break with the past.⁸⁰ The codes are understood as being genuinely Kosovar in spite of the fact that they were developed under

72 United Nations, Report on the Panel on the United Nations Peacekeeping Operations ("Brahimi Report"), August 21, 2000, UN Doc. A/55/305-S/2000/809, para. 80, suggesting that it would take an international presence for at least six months to get accustomed to the domestic applicable laws.

73 L. von Carlowitz, "Migranten als Garanten. Über die Schwierigkeiten beim Rechtsstaatsexport in Nachkriegsgesellschaften," in HSKF Standpunkte 6 (2004): pp. 3, 12.

74 R. Wilde, "The Complex Role of the Legal Adviser When International Organizations Administer Territory," in American Society of International Law Proceedings 95 (2001): p. 252.

75 Interview with UNMIK official, Pristina, October 2007; telephone interviews with former UNMIK officials and consultants, September 2008 and April 2009.

76 Telephone interviews with former ABA staff member and COE consultant, October 2008.

77 Interviews with international judges, OSCE local staff member, and former UNMIK official, Pristina, March 2008.

78 Bull, 2008, p. 133.

79 Interview with international judge, Pristina, March 2008.

80 Interviews with former Minister of Justice and with special prosecutor, March 2008.

reserved-power auspices. It seems that the statement by one UNMIK official that “the Kosovars were happy with anything, as long as it was not Serb”⁸¹ disregards the genuine and considerate efforts to achieve a modern penal law reform that takes into consideration existing legal traditions.⁸² The insertion of adversarial elements alien to Kosovo’s criminal law system was seen as something “progressive” and was strongly supported by the local legal experts in charge of the drafting process.⁸³ Yet it was also welcomed because the prevailing civil law traditions were associated with the hated former Serb regime.⁸⁴

In Liberia, UNMIL also became involved in various justice-related legislative projects such as the Law on Financial Autonomy of the Judiciary, a new Jury Law, a revised Rape Law, and a law establishing a Law Reform Commission. It faced a Liberian government that emphasized national ownership and rejected strong outside influence even though it did not always produce sound reform projects itself. Thus UNMIL was left to support lawmaking processes in more subtle ways, for example by bringing together drafting groups as well as providing logistical and technical support, preferably by Africans and not by Westerners.⁸⁵ In several cases UNMIL set the agenda, wrote important background papers, and drafted legal texts, but remained in the background. UNMIL tried as much as possible to avoid giving the impression of influencing the process too much and claiming ownership (and credit) for certain projects.⁸⁶ Even in cases where the lawmaking process was blocked, UNMIL only pushed softly, for example by persistently raising crucial issues at prominent meetings. One example is the Law Reform Commission which was to overcome the prevailing legal pluralism by harmonizing the statutory and the customary legal systems. While international influence was at times exerted by threatening to dissuade donors to continue funding in case local cooperation was missing, overall UNMIL did not make international aid conditional on progress in reform.

In terms of familiarity with the domestic legal system, technical assistance by UNMIL was easier in comparison to UNMIK’s legislative activity since the Liberian legal system uses the English language and is based on US legal traditions. Moreover, many Americo-Liberians are proud of their relationship to the United States that involved the drafting of Liberian laws by US elite institutions such as Yale and Cornell University.⁸⁷ Interviewees observed that hardly any capacity-building took place in such lawmaking and noted that Liberian legal stakeholders often look up to their US colleagues and ask for their expertise.⁸⁸ Moreover, the Liberian legal system contains a “reception statute” according to which US and British common law is applicable if a subject matter is not regulated by Liberian law.⁸⁹

3.7 Capacity-building, Mentoring, and Co-location

Capacity-building is seen as the other main means to achieve local ownership. In the justice sector, this consisted mainly of training for the judiciary and relevant stakeholders, technical advice for and mentoring of local officials, and in the case of UNMIL, the secondment of private lawyers to the Liberian prosecutorial services.

81 Interview with UNMIK official, Pristina, September 2007.

82 Telephone interview with former ABA staff member, October 2008.

83 Telephone interview with former UNMIK official, September 2008.

84 Telephone interview with COE expert, October 2008; see also Bull, 2008, p. 133.

85 Interviews with UNMIL officials, Monrovia, November 2008.

86 Interview with UNMIL official, Monrovia, November 2007; telephone interview with former UNMIL official, December 2008.

87 Interview with UNMIL official, Monrovia, November 2008.

88 Ibid., and interview with Pacific Architects and Engineers (PAE) official, Monrovia, November 2008.

89 Interview with dean of law school, Monrovia, November 2008.

In Kosovo, the OSCE-led Pillar III for Democratization and Institution-building bore primary responsibility for the training of judges, prosecutors, and other justice-related professions and related activities. In 2000, the OSCE established a Judicial Training Institute and other legal resource centers. In Liberia, similar programs were set up from the start of the mission. However, with respect to systematic judicial training, progress was only made with the establishment of the training institute in 2008. To improve results, training was increasingly provided in both Kosovo and in Liberia by local rather than international trainers. Moreover, training sessions focused more and more on concrete legal problems instead of abstract human rights standards.⁹⁰

Capacity-building is also done through on-the-job training and mentoring. Pointing at the OSCE's capacity-building mandate and its own shortage of staff, the UN-led administration of justice – i.e. the Pillar II Department of Judicial Affairs during JIAS times and from 2001, Pillar I's Department of Justice – did capacity-building mainly in the form of on-the-job training and learning by doing.⁹¹ Although there was a gradual increase of local responsibilities in general, it remained mission policy – even after the establishment of the PISG – to maintain ultimate international authority, but to leave the implementation to the Kosovars.⁹² While the JIAS attempted to manage judicial affairs in a co-governing structure with an international and a local co-head, international dominance persisted and was increased with the creation of Pillar I.⁹³ Although the Constitutional Framework entailed the rhetoric of “partnership,” “local ownership” and “self-government”, in reality legal initiatives or policy-related matters – in particular in the justice and police sectors – were rarely discussed with or even disclosed to local officials and institutions.⁹⁴ As a consequence, policies were instituted that followed international not local priorities.

There were fields in the justice sector where Kosovars were involved in executive decision-making, for example in the appointment of judges and prosecutors and also with respect to court administration and other technical and financial matters carried out by the Ministry of Public Services.⁹⁵ In other areas UNMIK consulted local staff with respect to concrete problems or to obtain information on local history and structures.⁹⁶ While consultation in general increased, local expertise was not always used fully and there are many instances where the local input provided was not included in the final policy product.⁹⁷

Internationals argue that cooperation with local staff was often difficult because of insufficient professional skills and a biased ethno-political outlook.⁹⁸ In fact, most Kosovo Albanians who had been expelled from public institutions had not practiced their profession since 1989. As a consequence, their experience with modern administrative structures and a post-socialist legal system was limited and their technical and managerial skills often outdated. In addition, many Kosovars had been traumatized by the recent history and vehemently opposed any conciliating policy toward the minority ethnic group. This obstructed UNMIK's efforts to maintain a multiethnic Kosovo as envisaged by Security Council Resolution 1244. In addition, qualified local counterparts were very difficult to

90 Interview with OSCE local staff member and with director of Kosovo Judicial Institute, Pristina, March 2008.

91 Interview with UNMIK official, Pristina, March 2008.

92 Interview with UNMIK official, Pristina, March 2008.

93 Interview with former OSCE official, New York, June 2009.

94 Rausch, 2007, p. 302.

95 For the justice-related responsibilities of the Ministry of Public Services see United Nations, UNMIK Regulation No. 2001/19 on the Executive Branch of the Provisional Institutions of Self-Government in Kosovo, September 13, 2001, Annex IX, and United Nations, UNMIK Regulation No. 2001/9 on a Constitutional Framework for Provisional Self-Government in Kosovo, May 15, 2001, section 5.3 (b)-(m).

96 Interview with local UNMIK staff, Pristina, September 2007.

97 Interviews with OSCE local staff member and with NCSC consultant, Pristina, March 2008.

98 Interviews with UNMIK officials, Pristina, March 2008.

attract because of the extremely low salaries offered to local public servants in comparison to private sector employees.

Employing local legal experts as National Professional Officers (NPOs) would have improved this situation since their salaries were approximately four times higher than those paid by the JIAS and PISG respectively. However, the UNMIK Department of Justice was only assigned three NPOs, of which two left UNMIK in 2002 without the vacancies being filled.⁹⁹ Realizing the potential of young, talented law graduates, the department's Legal Policy Division developed an innovative scheme to involve some internationally versatile Kosovars in international judicial cooperation and transborder cases. They were paid the regular PISG salary for legal assistants, but a mentoring program and the job title as "legal officer" motivated them to work hard and to take on significant professional responsibilities.¹⁰⁰ They received some international training on legal drafting and EU standards, but were required to go through a steep learning curve, for example by writing complex memos in short periods of time with limited supervision in English only. According to the UNMIK official in charge, one-third of the graduates failed, but the successful remainder was able to take over full responsibility.¹⁰¹

Younger Kosovars with a recent law education generally found it easier to work with the international administration than their older colleagues.¹⁰² On the one hand, they criticized international incompetence and disrespect for local priorities and traditions, in particular in the legislative realm.¹⁰³ But on the other hand, they also realized the above mentioned lack of professional skills and motivation of their older colleagues and local politicians and they appreciated that the international community exposed them to alternative management cultures.¹⁰⁴ They deplored that UNMIK transferred powers to senior but inexperienced Kosovars whose sole interest was to stay in power and to cover up their incompetence by using international consultants.¹⁰⁵

Older Kosovars often professed a more critical view on the ways UNMIK included locals in its decision-making. They often found that UNMIK was not interested in sharing or even transferring responsibilities into local hands. Instead internationals wanted to hold on to their power and were unwilling to lose their job in a "five-star mission."¹⁰⁶ A former local UNMIK staff member claimed that UNMIK did not care for any capacity-building and merely used local staff as a "fig leaf" for local participation and power-sharing. UNMIK seemed to have welcomed local contributions as long as they did not challenge international positions and dominance. But as soon as locals reached for real responsibility, their input was rejected by their international colleagues who often exhibited a condescending or missionary attitude.¹⁰⁷ It was also observed that in general cooperation between internationals and locals functioned better regarding technical issues than with regard to politically sensitive matters.¹⁰⁸

Irrespective of whether these criticisms are well-founded or not, UNMIK – like the OSCE with respect to the Kosovo Judicial Institute – did not engage in much capacity-building for the newly created Ministry of Justice and the Kosovo Judicial Council. In line with its

99 Interview with UNMIK official, Pristina, March 2008.

100 Interview with UNMIK official, Pristina, October 2007.

101 Ibid.

102 Interview with OSCE official, Pristina, March 2008.

103 Interviews with former PISG consultants, Pristina, March 2008.

104 Interview with KJC official, Pristina, March 2008.

105 Interviews with former PISG consultant and OSCE local staff member, Pristina, March 2008.

106 Interviews with local UNMIK staff member and former Minister of Justice, Pristina, September 2007 and March 2008.

107 Interview with former UNMIK local staff member, Pristina, March 2008.

108 Interview with director of Legal Aid Commission, Pristina, March 2008.

general policy to leave the implementation to the Kosovars, UNMIK quickly withdrew and left these institutions to themselves.¹⁰⁹

Mentoring and on-the-job training also played a role in the context of the international judiciary. Capacity-building of the local judiciary was one of the justifications used for inserting international judges and prosecutors into Kosovo's judicial system.¹¹⁰ Coaching and learning from international experiences were to take place in mixed panels and in the preparatory work for court cases. With the exception of Pristina, local and international judges were co-located in the District Court buildings and the local judiciary was to learn from their international colleagues through osmosis (the "tea bag" theory).¹¹¹ In 2005, the international judges and prosecutors were withdrawn from the regions and forced to commute to the District Courts from Pristina for concrete investigations or trials. UNMIK justified this move which effectively ended any potential capacity-building by a lack of funds for adequate language services and for implementation of an adequate mentoring strategy.¹¹² Some cases of misconduct also prompted UNMIK to ensure better oversight by concentrating the international judiciary in Pristina.

Except with respect to the Kosovo Special Prosecutors Office (KSPO) mentioned below, UNMIK found the idea of capacity-building both too expensive and too idealistic. Besides continuous top-quality language services, proper mentoring and coaching would have required the international judge or prosecutor "to learn how to walk in the local judge's [or prosecutor's] shoes" and to take sufficient time to understand what the real challenges and stakes of the local judiciary are.¹¹³ But this could not happen in a situation in which international judges were "parachuted" into a local justice system and were expected to work under pressure without having received any previous training on the domestic laws, traditions, and structures.¹¹⁴ Cooperating closely with each other would also have required much personal energy and time which most international judges and prosecutors were not willing to invest. Having to cope with a heavy workload, they preferred to do their cases in an expedient manner alone.¹¹⁵ Moreover, the very usefulness of a mentoring and coaching program for the judiciary was doubted: International judges found that "mentoring, monitoring and coaching would be equal to patronizing" and that local judges would not care to have a "babysitter."¹¹⁶ It was also observed that the idea of mentoring judges would contradict the principle of judicial independence.¹¹⁷

Instead of being engaged as capacity-builders for their local counterparts, UNMIK and the majority of international judges and prosecutors understood their task as being to safeguard international human rights standards in special high-profile cases involving politically sensitive issues or organized crime.¹¹⁸ Although the international judiciary was constituted as an integral part of the domestic judicial system, it de facto operated as a

109 Interview with former OSCE official, Pristina, November 3, 2006; telephone interview with former UNMIK official, April 2009.

110 Interview with international judge, Pristina, March 2008. See also Amnesty International, Kosovo (Serbia): The Challenge to Fix a Failed UN Justice Mission, AI Report, January 29, 2008, pp. 4-5.

111 Statement by first international prosecutor as cited in I. King and W. Mason, *Peace at Any Price: How the World Failed Kosovo*, Ithaca: Cornell University Press, 2006, p. 109.

112 Interview with UNMIK official, Pristina, March 2008.

113 Interview with international judge, Pristina, March 2008.

114 Interview with UNMIK official, Pristina, March 2008; see also Amnesty International, 2008, pp. 28-31. From 2002 to 2004, UNMIK, however, organized some training courses on the applicable law for international judges and prosecutors and its legal officers. The training was provided during a weekend seminar two or three times per year also by local professionals. This system was discontinued due to staffing shortages following a restructuring of the UNMIK Department of Justice. Interview with international judge, Pristina, March 2008.

115 Interview with international judge, Pristina, March 2008.

116 Interviews with international judges, Pristina, March 2008.

117 Interview with UNMIK official, Pristina, March 2008.

118 Interviews with UNMIK officials, Pristina, March 2008.

parallel justice system.¹¹⁹ Although the relevant legislation concerning the international judiciary foresaw mixed staffing of trials, which involved both international and local judges as one option, cases were normally heard separately either by internationals or by locals. International judges decided mostly in purely international trials.¹²⁰ There was not much room for the exchange of opinions and experiences in mixed trials either. As Pristina-based international judges arrived shortly before the beginning of a trial and left directly after, there was not even a proper exchange of opinions and experiences in mixed panels.¹²¹ Similarly, there was not much cooperation between international and local prosecutors (outside the KSPO) either.¹²²

The attitude of local judges and prosecutors to the international judiciary was ambiguous. Although Kosovars rejected the international judicial intervention – in particular with respect to those panels with a majority of international judges – as an infringement on their sovereignty and judicial independence, many local judges and prosecutors appreciated the chance to share different experiences and to learn from their international counterparts. This concerned in particular mixed panels if the decisions were taken jointly and on an equal footing.¹²³ At the same time, they complained about insensitive and arrogant behavior of their international colleagues and disliked various aspects of their involvement including the random case allocation and their lack of accountability. Yet overall, the local judiciary seemed to have accepted the international judiciary, also realizing the advantage that the latter took the pressure off of them to decide in difficult and potentially dangerous cases.¹²⁴

Following years of relative neglect of the prosecutorial services in comparison to the courts,¹²⁵ a different approach was taken in the recently established KSPO, an office in which co-located local and international prosecutors worked side by side to prosecute the most serious criminal offences including “cases of organized crime, corruption, criminal offences motivated by race, national or ethnic background, or religion, terrorism and trafficking in persons, in accordance with the applicable law.”¹²⁶ The explicit purpose of the KSPO is capacity-building in the Office of the Public Prosecutor through training and mentoring of special prosecutors. Training is mainly provided by “on-the-job training by assisting and working under the direction of international prosecutors on investigations and prosecutions in their field of competence.”¹²⁷ Using a train-the-trainers rationale, it is envisaged that the international involvement will gradually decrease placing responsibility into the hands of the trained special prosecutors.¹²⁸ While in the first year (“transitional phase I”), international prosecutors lead and have ultimate responsibility for the investigations and prosecutions, in the second transitional phase it is local special prosecutors who may assume primary responsibility with international prosecutors acting in a monitoring and advising capacity.¹²⁹

119 Interview with international judge, Pristina, March 2008.

120 Bull, 2008, pp. 138-139; A. Schröder, *Der Beitrag internationaler Richter und Staatsanwälte zur Entwicklung der Rechtsstaatlichkeit im Kosovo*, ZIF Report, August 2004, p. 20.

121 Interview with international judge, Pristina, March 2008.

122 Schröder, 2004, p. 20; Rausch, 2007, p. 302.

123 Interviews with Supreme Court Judge, former judges, and local attorney, Pristina, September 2007 and March 2008.

124 Interview with international judge, Pristina, March 2008.

125 Cf. E. Scheye, “UNMIK and the Significance of Effective Programme Management: The Case of Kosovo,” in *Security Sector Reform and UN Integrated Missions: Experiences from Burundi, the Democratic Republic of Congo, Haiti and Kosovo*, ed. H. Hänggi and V. Scherrer, Geneva: DCAF, 2008, p. 191.

126 United Nations, Administrative Direction No. 2006/15 Implementing UNMIK Regulation No. 2000/15 on the Establishment of the Administrative Department of Justice, September 30, 2006, sections 2 and 4.

127 Ibid., section 3.2.

128 Interviews with chief prosecutor and UNMIK staff, Pristina, March 2008.

129 United Nations, Administrative Direction No. 2006/15, sections 5.1 and 5.3.

Although international primary responsibility and authority is criticized in general terms on the political level, the cooperation within the KSPO seems to work well.¹³⁰ Kosovar special prosecutors work on their cases and consult their international colleagues when necessary.¹³¹ With sufficient language services at their disposal, international and local special prosecutors meet two to three times per week to discuss relevant matters including strategic issues as well as detention questions and interrogation techniques. Trying to combine ultimate responsibility with effective capacity-building, international prosecutors try to apply a “soft managerial touch” according to which work is organized in a cooperative way.¹³² It has been observed that the cooperation between local and international prosecutors works better than between local and international judges because prosecutors are used to team work in an executive environment, whereas judges spend more time deliberating and working on files on their own.¹³³ Although it was still too early to judge the KSPO properly, a relevant UNMIK official was “cautiously hopeful” that the KSPO would serve as a model for local and international cooperation in the justice sector.¹³⁴

A primary capacity-building activity in Liberia was to co-locate UNMIL staff to local partner institutions. International staff members were to cooperate closely with local actors and to advise and mentor them in their activities.¹³⁵ One co-located UNMIL staff member observed that co-location is a very important strategy with many benefits, but that it also holds risks. If the co-located person demonstrates to the local partner institution that he or she is a humble and mature individual who is pursuing the latter institution’s interests, local partners would view the co-located as “part of the family.” Provided that local dignity is maintained, it was thus much easier to transform international thinking into local ideas and to get the approval for relevant programs and projects. On the other hand, the interviewee mentioned above stated that a co-located person who appeared to be very pompous and arrogant could do much harm to the cooperation between the institutions.

Whereas the Ministry of Justice and the legislature appreciated the support of co-located UNMIL staff members, the Chief Justice was more reluctant to accept an international officer on his premises. An argument over the appropriate refurbishment and equipment of the office space assigned to the UNMIL official to be co-located to the judiciary delayed actual co-location until 2008, although co-location was proclaimed an official mission policy. Only a few months later, the SRSG decided to reduce the co-location scheme and to withdraw UNMIL staff from the local partner institutions. The scheme was ended for several reasons: With the co-located staff members spending nearly all of their time at the local partner institutions, UNMIL superiors found that there was a lack of accountability of the co-located persons to their home offices.¹³⁶ Moreover, it was noted that local partner institutions used the co-located UNMIL staff too often as a cheap labor force to complete assignments on their behalf.¹³⁷ Given the variety of possible assignments, UNMIL also felt that a stronger linkage of the co-located persons to their headquarters was necessary to ensure that a UNMIL staff member with matching skills for a given task was sent to the local partner institution.¹³⁸ Another interviewee stated that the co-location scheme was

130 Interviews with chief prosecutor and EULEX staff, Pristina, March 2008.

131 Interview with special prosecutor, Pristina, March 2008.

132 Interview with international prosecutor, Pristina, October 2007.

133 Interview with international judge, Pristina, March 2008.

134 Interview with UNMIK staff, Pristina, March 2008.

135 Interview with UNMIL official, Monrovia, November 2008.

136 Interview with UNMIL official, Monrovia, November 2008.

137 Interviews with UNMIL officials, Monrovia, November 2008.

138 Interview with UNMIL NPO, Monrovia, November 2008.

ended because “it did not work.”¹³⁹ Mentoring should not take place at headquarters, but rather at the county level where most practical work was carried out.

However, despite the rhetoric, the co-location scheme did not end entirely, but was reduced to the usage of “focal points” who commuted between UNMIL and their national counterpart.¹⁴⁰ Instead of having an office there, formerly co-located staff now visit the local partner institutions three or four times per week and work there with a laptop computer for part of the day.¹⁴¹

Although local stakeholders strongly emphasized national sovereignty and generally refused to accept any outside imposition, international UNMIL and NGO staff noted that in many cases Liberian officials de facto did not take an active role in policymaking, law drafting, and other relevant work.¹⁴² In particular on the working level, locals were said to be reluctant to sit in the driver’s seat and to accept responsibility. This situation left international partners to either push softly for local action and to risk a lack of progress in a given reform process or to do much substantive work themselves, but to risk the reproach of international domination. There were instances when internationals and locals jointly developed certain projects over a period of time. At some point in the process, the minister would storm in, claim that he was in charge, and propose a certain course of action in complete disregard of the previous work. Afterwards, the subordinates were left to complete the job without having the capacity and would turn again to the international officers to provide the required expertise or policy recommendations. The subordinates would welcome the input, follow the international officers’ ideas, and then submit the document for approval by the minister.¹⁴³

3.8 Conclusions: Local Ownership and Rule of Law

The first conclusion concerning local ownership and the rule of law is that a lot of it is a question of perception. In terms of local involvement, the overall governance strategy of a mission can be very different from the particular implementation of legislative or other projects. For example, looking at UNMIK’s harsh and non-participatory approach to the rule of law in general, one might forget that certain key judicial projects do enjoy quite some local appreciation and acceptance. Whether local ownership exists or not also depends on who is deemed to be the relevant counterpart, for example formal justice actors or the rural population. In this connection, the differentiation between national and local ownership is very useful. As most post-conflict scenarios are situated in countries of the Global South where the formal justice system has only limited reach, working toward local ownership means less “rule of law-orthodoxy” focusing on technical legal assistance and state-centric institutions, and more focus on legal empowerment, access to justice, and interaction with traditional justice mechanisms.¹⁴⁴

With respect to the concrete means to achieve local ownership in the justice sector, one can say that most interviewees in Kosovo focused on various aspects of transfer of responsibilities and local participation in regulatory processes, whereas in relative terms there was more emphasis on capacity-building in Liberia including legal education. In terms of actors, it seems that in comparison UNMIK policy was generally geared more

139 Interview with ABA official, Monrovia, November 2008.

140 Interview with UNMIL NPO, Monrovia, November 2008.

141 Interview with national and international UNMIL officials, Monrovia, November 2008.

142 Interviews with UNMIL and Carter Center officials, Monrovia, November 2008.

143 Interview with Carter Center official, Monrovia, November 2008.

144 See also S. Golub, “Beyond Rule of Law Orthodoxy: The Legal Empowerment Alternative,” Carnegie Endowment for International Peace, Working Papers, Rule of Law Series No. 41, October 2003.

toward politicians, experts, and judicial stakeholders, whereas UNMIL (although it also adopted a state-centered approach to institution-building) needed to consider the “elephant in the room,” i.e. the 80 percent of the Liberian population that have been left outside the formal system and rely on traditional settlement mechanisms. These observations mirror the fact that UNMIK as an executive mission was generally more preoccupied with regulation, governance, and security issues than the more development-oriented assistance mission UNMIL.

While there certainly has been much rhetoric and also frustration with the implementation of local ownership, this research shows that local ownership of newly established systems and institutions can be achieved if there is sufficient political will and sustainable support. The (re-)institution of Kosovo’s judiciary demonstrates that local ownership may even be reached (at least to some degree) if new institutions are set up by an executive mission with full governance powers. Moreover, the adoption of the Provisional Codes in Kosovo shows that it is possible for locals to take pride in and “own” new legislation drafted under international auspices. Of course, this is only if based on a sound, serious, and sustainable participation process in which local and international partners meet on equal terms. In such processes, new laws can override local legal traditions and still be welcomed – although they cause implementation problems and legal uncertainty, as is the case with the Provisional Code for Criminal Procedure. Moreover, these examples also show that drafting processes can serve as good on-the-job learning for legislative drafting skills, especially if connected with a training program as was the case with the law on courts.

While these findings are generally positive, it should not be forgotten that the international intervention in Kosovo is a special case not just in terms of the abundant resources that UNMIK had at its disposal. Several factors contributed to the – at least partial – success of essential elements of the UNMIK-induced justice reform. Among them is the fact that before the conflict Kosovo possessed a functioning justice system that was accepted by the population in general. Kosovo shares European legal and institutional traditions and Kosovars were motivated to accept change with a view to an eventual European Union membership. Albanian Kosovars also welcomed many changes as an indication of separation from the previous Serb regime. Most post-conflict environments including Liberia do not enjoy such favorable conditions for an international intervention.

In particular in more difficult environments, local participation and capacity-building entail a myriad of communication, knowledge, and motivation problems that can only be overcome or mitigated with much energy and persistence. As a basic premise, the organizations involved – as well as the individual staff members – must comprehend that they serve the local population and must duly consider local perceptions of and approaches toward planned reform projects. The inevitable gaps between the local and international realms can potentially be bridged by various strategies such as co-locating international staff into local government offices, by employing NPOs who are sufficiently paid, by using local or regional trainers and facilitators to mitigate accusations of neo-colonialism, or by engaging the younger generation with professional experiences and/or education abroad.

However, the research also indicates that all of these strategies have their shortcomings and cannot be applied as a blueprint. For example, both UNMIK and UNMIL terminated or at least reduced existing co-location schemes at some point. In Kosovo, international judges were withdrawn from the regions partly due to a lack of resources for meaningful mentoring. In Liberia, UNMIL staff co-located to the ministries was withdrawn due to a lack of control and partial misuse by the Liberian government. In terms of NPOs, UNMIK – though not the OSCE – had very few of them and needed to deal with often unenthusiastic and insufficiently paid local professionals, whereas UNMIL was fortunate to have a larger

number, but was criticized for stealing the country's few qualified lawyers. While in general local or regional trainers and facilitators seem to achieve better results in training sessions or group discussions, locals might prefer internationals to perform these tasks as independent and respected authorities without any linkages to the conflict.

Creating local ownership of new institutions or systems that have been introduced in the course of an international intervention is a long-term and inter-generational undertaking. The more intervention there is, the more international actors become part of the local power dynamics and can be held responsible. Initiating serious changes – for example by empowering local reform constituencies through institutional reform –, but then quickly losing interest and withdrawing engagement does not just undermine international values, but can also cause local harm. Local ownership is not created in this way.

4. Ownership in Practice: Elections

4.1 Electoral Assistance in Peace Operations

Elections are generally regarded as one precondition for the stabilization of post-conflict countries and the building of sustainable peace.¹⁴⁵ As a result, international electoral assistance inside and outside peace operations in recent years has become a veritable growth industry. Since 1992 when the Electoral Assistance Division (EAD) was established within the UN Department for Political Affairs (DPA), it has been a prominent feature of every peace operation under the auspices of the United Nations.¹⁴⁶ A 2005 report of the Secretary-General listed 47 UN electoral technical assistance missions since 1992.¹⁴⁷ Electoral assistance in the 1990s was mainly “event-driven”. International organizations focused on the successful management of a specific election in a given country and then turned away and became involved only shortly before the next electoral event. Activities tended to be short-term and ad hoc. But repetitive international electoral support in places like Liberia or Kosovo as well as the negative evaluation of some electoral assistance activities¹⁴⁸ has led to a gradual rethinking. International actors have increasingly moved away from “electoral tourism”¹⁴⁹ and toward the building of stable electoral administration capacities and sustainable and transparent procedures.

Generally, international involvement in post-conflict elections can differ widely with regard to intensity – from very intrusive measures or total control of electoral processes to mere advisory functions for certain technical aspects. However, the political significance and delicacy of post-conflict elections and their decisive nature for the first phase of peace operations have frequently led the international community to take over complete responsibility – or at least a more than dominant role – for first-time elections. In fact, international actors often have been given the role of an independent and neutral election manager by the parties to the conflict themselves in order to avoid tensions or open violence during the unstable times of electoral campaigns. The two case studies chosen for this project provide examples from both ends of the spectrum: full control in Kosovo and an advisory role in Liberia.

In Kosovo, the United Nations Security Council Resolution 1244 called for “the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants.” Elections were the reserved responsibility of UNMIK, delegated to the OSCE with the OSCE Head of Mission as a chairperson to the Central Election Commission (CEC). In total, the OSCE organized and supervised four elections: at the municipal level in 2000 and 2002 and at the central level in 2001 and 2004.¹⁵⁰ After the 2007 elections and the unilaterally declared Independence in 2008, the national institutions have assumed greater responsibilities for elections and taken over the chair of the CEC though the OSCE Electoral Division continues to assist the electoral management bodies.

145 B. Reilly, “International Electoral Assistance. A Review of Donor Activities and Lessons Learned,” The Hague: Netherlands Institute of International Relations “Clingendael” Working Paper 17, June 2003, p. 18.

146 United Nations, Report of the Secretary-General, Strengthening the Role of the United Nations in Enhancing the Effectiveness of the Principle of Periodic and Genuine Elections and the Promotion of Democratization, UN Doc. A/60/431, October 14, 2005, para. 7.

147 Ibid., para. 11.

148 A. Ellis et al., “Effective Electoral Assistance. Moving from Event-based Support to Process Support,” Stockholm: IDEA Publications, 2006, p. 8.

149 B. Reilly, 2003, p. 13.

150 See the website of the OSCE in Kosovo at <<http://www.osce.org/kosovo/13208.html>> (last visited April 9, 2010).

In the case of Liberia, after the signing of the Comprehensive Peace Agreement (CPA) of August 18, 2003, UNMIL acted as a non-partisan facilitator for the elections. The CPA mandated the National Transitional Government of Liberia (NTGL) to request "the United Nations, the African Union, ECOWAS and other members of the international community [...] to jointly conduct, monitor and supervise the elections in the country,"¹⁵¹ which were to be held by October 2005.¹⁵² The CPA called for a reform of the existing electoral system¹⁵³ and for an independent and reconstituted National Elections Commission (NEC) which was required "to operate in conformity with UN standards in order to ensure that the rights and interests of Liberians are guaranteed, and that the elections are organized in a manner that is acceptable to all." In September 2003, the UN Security Council passed Resolution 1509 authorizing the establishment of UNMIL. One key component of the mandate was assisting the transitional government "in conjunction with ECOWAS and other international partners, in preparing for national elections scheduled no later than the end of 2005."¹⁵⁴

4.2 Scope of Research on Elections

What might be called the mechanics of an electoral process can be usefully divided into two main areas: the electoral system and electoral administration.¹⁵⁵ The electoral system depends on legal and constitutional issues such as the choice between a presidential or parliamentary system, the formula for distribution of seats, and the structure of electoral districts. The electoral administration covers electoral management bodies (EMBs), voter registration, boundary delimitation, and the like. Although electoral systems and laws are certainly important as they provide the overall framework, electoral administration is the key for implementing an electoral process in a way that reflects the will of the voters.¹⁵⁶ Nevertheless according to Reilly, "electoral systems have attracted a voluminous academic literature while issues of electoral administration remain under-studied by scholars and under-rated in general terms of their effect on post-conflict polities."¹⁵⁷ Robert A. Pastor comes to the same conclusion by complaining that "whatever the reason, there has been so little attention given to the conduct of elections that this writer found practically no literature on the subject of election commissions or their history."¹⁵⁸ Political scientists have for too long narrowed their approach to the subject of post-conflict elections to politics, parties, and proportionality, looking at constitutional questions rather than the actual carrying out of elections.

Given the number of potential actors and activities in the field of electoral assistance, it was important to reduce the areas to be covered by the empirical work of the research project. Following the above reasoning and after discussions with electoral specialists and preliminary field research in Liberia and Kosovo in 2007, this project selected electoral administrations as the core research area. Specifically the main focus will be on the establishment and support of local EMBs. This task was in fact the core of the election-related activities of both UNMIL and UNMIK.

Kosovo offers a wider arrangement of electoral bodies including the Central Election Commission (CEC) and its Secretariat (CECS), the Municipal Election Commissions

151 Article XIX of the Comprehensive Peace Agreement, August 18, 2003.

152 Ibid., Article XVIII.

153 Ibid.

154 S/Res. 1509 (September 19, 2003).

155 B. Reilly, "Post-Conflict Elections: Constraints and Dangers," in *International Peacekeeping* 9 (2002) 2: pp. 124-125.

156 R.A. Pastor, "The Role of Electoral Administrations in Democratic Transitions: Implications for Policy and Research," in *Democratization* 6 (1999) 4: p. 6.

157 B. Reilly, 2002, p. 125.

158 R.A. Pastor, 1999, p. 6.

(MECs), and the Election Complaints and Appeals Commission (ECAC). Due to the fact that five elections were held in Kosovo during the period under consideration, the project was able to analyze the strategies of long-term institution-building. While the NEC in Liberia has always been formally in charge of the elections and no official transfer was needed, only partial responsibilities have been transferred from the OSCE and UNMIK to the CEC and its Secretariat in Kosovo between the first municipal elections in 2000 and the general elections at the end of 2007. The transfer of responsibilities thus constituted a key issue of the research in Kosovo.

In Liberia, the research concentrated on the National Elections Commission (NEC) and its local branches, especially on the capacity-building measures of UNMIL's Electoral Division for the NEC and local assistant and political magistrates before the 2005 elections and the daily cooperation of external and internal actors in this process.

4.3 Electoral Management Bodies

In Kosovo, local electoral administration bodies have evolved slowly over time after their establishment through UNMIK regulations. The oldest ones are the MECs which have existed – with different roles and responsibilities – since the first municipal elections in 2000. MECs are integrated into the municipal structure and perform their duties independently, although the CEC holds the final authority. It has gone through a number of different formats, but has always included local stakeholders. Between 2001 and 2008, the OSCE Head of Mission chaired the CEC which consisted of nine local and three international commissioners. Political parties and minority communities appoint the local commissioners. The CEC makes decisions by consensus. If consensus cannot be reached, the chairperson – always an international – makes the final and binding decision.¹⁵⁹ The Central Election Commission has a full-time Secretariat (CECS), first established in 2003 and staffed by civil servants. It is tasked with the actual implementation of the elections. Finally, the Electoral Complaints and Appeals Commission (ECAC) was established in different formats before each of Kosovo's five elections – and closed again after each one.

In contrast to Kosovo, the establishment of the NEC of Liberia is mandated by the constitution.¹⁶⁰ Also, the CPA specifically required the NEC to be reconstituted as an independent entity before the elections. It thus fell to the chairman of the NTGL to nominate seven commissioners and an executive director/chairperson of the Commission, all of whom were then vetted by an independent council. Though the international community monitored the process, it had no official role in it and did not interfere openly. In that way, the NEC from the start established a strong feeling of independence toward UNMIL and other international agencies, even though its capacities were quite limited at that time.¹⁶¹ The NEC is responsible for the overall management of the elections including preparation, organization, and the adoption of all necessary measures to ensure free and fair elections. Eighteen sub-offices were established in the counties, each with an elections magistrate and a county coordinator. Additional assistant magistrates were appointed and trained for civic education, registration, and other electoral issues.

¹⁵⁹ Since independence in 2008, the Head of Mission (HoM) does not chair the CEC any longer.

¹⁶⁰ Article 89 of the Constitution of the Republic of Liberia.

¹⁶¹ Interview with former NEC Commissioner, Monrovia, November 2007.

4.4 The Structure and Role of UNMIK/OSCE and UNMIL

As has already been pointed out, the roles of the two UN missions in Kosovo and Liberia differed considerably. UNMIK, provided with an executive mandate, was in charge of the electoral process, whereas UNMIL with its more limited mandate was tasked with supporting the NEC of Liberia. The following short description of their respective structures and activities will therefore reveal significant differences.

In Kosovo, UNMIK set the dates of all elections until 2007 and used its regulatory powers to promulgate electoral laws and rules. Within UNMIK, the OSCE was officially tasked with the administration and implementation of electoral processes. It set up a Department of Election Development (DED)¹⁶² in 1999 which has remained in Kosovo as the OSCE Electoral Division, but has changed significantly over the years in size, tasks, and personnel. In contrast to Liberia which already had electoral structures that needed to be revitalized, the OSCE in Kosovo was in charge of creating new institutions, drafting laws, and training local personnel for the new electoral bodies. Importantly, the OSCE always viewed the delivery of elections in accordance with international standards as one of its core tasks in Kosovo.¹⁶³ In addition, Kosovo elections were also at the center of international attention and the OSCE was fully aware that its reputation was thus at stake. In 2007, the self-description of the OSCE Electoral Division still declared that it was required to “pro-actively monitor the preparation and conduct of elections and intervene as necessary to prevent or remedy any potential misconduct or deviation from electoral rules.”¹⁶⁴ The OSCE Electoral Division de facto was the electoral management body of Kosovo and acted accordingly. For years it would be a dominant partner, teacher, and ultimate arbiter for all local actors and the evolving local electoral bodies. Between 2000 and 2007, the OSCE Electoral Division created and nurtured them all.

At the CEC – the main forum for decisions on electoral laws and regulations – the various Heads of Mission of the OSCE¹⁶⁵ had different levels of experience with electoral affairs and also applied different working styles. Some tried to create consensus on decisions, some used their executive powers and made independent decisions, often guided by requests of the OSCE Electoral Division.¹⁶⁶ Nevertheless, the OSCE Electoral Division saw in 2001 already that it must address “the objective of effectively concluding the role of the international election staff and the takeover by national staff.”¹⁶⁷ The overall goal was described as the “development of a permanent professional cadre of Kosovo election administrators.”¹⁶⁸ To reach that goal, the Electoral Division applied a two-pronged approach: the training and support of local actors in local structures (such as MECs and the CECs) and the training and hiring of NPOs for the OSCE Electoral Division itself. This strategy – which was implemented OSCE-wide in Kosovo, but not within the other pillars of UNMIK – slowly turned the OSCE Electoral Division into a “Kosovarized” international division with more than 90 percent Kosovar staff by mid-2007. The program was seen as a key “to assist in the transition to national professional staff.”¹⁶⁹ Through the daily interaction with international staff, the NPOs would receive specialized training and “become a professional election administrator functioning in a responsible position.”¹⁷⁰

162 The DED was named Department of Election Operations (DEO) in 2000, Department of Elections (DE) in 2003, and OSCE Electoral Division (ED) in 2007. For simplicity, the authors use the term Electoral Division (ED).

163 Interview with Head of OSCE ED, Pristina, March 2008.

164 Website of the OSCE in Kosovo at <<http://www.osce.org/kosovo/13208.html>> (last visited April 9, 2010).

165 In total, seven different Heads of Mission of the OSCE chaired the CEC between 2001 and 2008.

166 Interviews with CEC members, Pristina, March 2008.

167 OSCE DEO, Strategic Plan: 2001-2005, June 2001, p. 4.

168 Ibid.

169 Ibid., p. 15.

170 Ibid.

Although the internal Strategic Plan of June 2001 of the Electoral Division advised a decreasing role for the OSCE Electoral Division in all electoral bodies and recommended a “Kosovarization” of these institutions by 2004 the latest, the 2004 and 2007 elections witnessed sharp relapses to full OSCE control. In 2007, UNMIK called for local and general elections against the will of the Kosovo political parties and even the OSCE itself.¹⁷¹ In the preparation of these elections, the OSCE hired 150 additional international electoral experts, withdrew OSCE personnel from other divisions for electoral tasks and put together additional “witness teams” comprised of OSCE and UNMIK personnel. As a result, the involvement of the local CEC and its Secretariat was even less than in 2004 – a clear example of how extraneous political considerations and the need to deliver “successful” elections for an international audience can get in the way of long-term capacity-building.¹⁷² The dominant role of the Electoral Division only changed after Kosovo declared independence in 2008 when the Head of Mission withdrew from chairing the CEC and the Electoral Division had to move toward a more advisory function.

Turning to Liberia, the roots of the structure and tasks of UNMIL’s electoral role go back to the recommendations of an international assessment team that visited the country in April 2004. The International Foundation for Elections Systems (IFES)¹⁷³ was sent to Liberia on behalf of the EAD of the UN DPA. The team identified areas of concern such as civic and voter education, voter registration, constituency delimitation, and polling. It further concluded that the NEC would need extensive material support and capacity-building measures from the international community in order to be in a position to implement its mandate.¹⁷⁴

The mission even suggested that UNMIL’s support to the elections should be “robust” recommending the provision of a chief electoral advisor to the Commission who “could provide support and guidance to the National Elections Commission on the development of policy, procedures, and the overall management of the electoral process.”¹⁷⁵ In addition, IFES advocated that the NEC should have international members to “demonstrate, in a highly visible way, international involvement in the electoral process.”¹⁷⁶ The UNMIL leadership at the time supported this idea while Liberian counterparts at the newly formed NEC, which was founded two weeks after the assessment mission left the country, opposed it.¹⁷⁷ Interviews with UNMIL and NEC staff revealed that especially the first SRSG and his deputy argued for a stronger role of UNMIL in the elections by quoting from the CPA that the international community should “jointly conduct, monitor and supervise.”¹⁷⁸ But even the head of the UNMIL Electoral Division stressed that UNMIL did not have the mandate to implement such measures. Nevertheless, serious tensions between the NEC and UNMIL occurred which were only gradually resolved by three factors: a meeting in Abuja moderated by ECOWAS where it was made clear that the NEC was in charge for the elections, a new SRSG with a different working philosophy who stressed NEC’s ownership of the electoral process, and a new head of the UNMIL Electoral Division who was able to improve the communication and cooperation between UNMIL headquarters, the Electoral Division, and the NEC.¹⁷⁹

171 Interview with HoM OSCE, Pristina, March 2008.

172 Interview with OSCE Field Election Specialist, Peja, March 2008.

173 The team was comprised of four international electoral experts.

174 S. L. Palmer et al., Report of an Electoral Assessment and Planning Mission to Liberia, April 4-25, 2004, IFES Report.

175 Palmer et al., 2004, p. 33.

176 Ibid., pp.33-34.

177 Interviews with UNMIL and NEC officials, Monrovia, November 2007.

178 Interview with UNMIL representative, Monrovia, November 2007.

179 Interviews with NEC Commissioners, Monrovia, April 2008.

Furthermore, its new head decided to reform the structure of the Electoral Division so that it mirrored the NEC's organizational set-up.¹⁸⁰ According to several interviewees, this practical rearrangement was a strong symbol for the NEC's ownership of the elections.¹⁸¹ Additionally, it was a significant contribution to the development and maintenance of close cooperation between both entities through all phases of the process.¹⁸² Once fully deployed, UNMIL's Electoral Division had a total staff of 585 persons made up of 24 international civilian staff, 183 United Nations Volunteers (UNV),¹⁸³ and 378 national staff making the Electoral Division twice as large as the NEC.

At the county level, international County Electoral Advisors (CEAs) were assigned to each of the 18 County Electoral Offices. They were supported by 105 Electoral Support Officers (ESOs) who assisted the NEC county staff with the training of registration and polling personnel as well as monitoring and providing logistical support for the voter registration and polling process. All employees were UNVs.

4.5 Interaction: Advice, Support, and Co-location

Local ownership can only develop through interactions between international personnel and local partners. This interaction can occur in many shapes: when deployed international staff in headquarters and the field meet national actors in workshops, roundtables or other formats, or when international and national staff is actually co-located in the same space with continuous cooperation. In all these settings, both cultural sensitivity and local knowledge are the keys for success. Unfortunately, one result of interviews conducted in Kosovo was the complaint by Kosovar interviewees about a general lack of local knowledge on the part of international personnel recruited for Kosovo. It seems that pre-deployment training did not include enough information on local traditions, actors, and processes. In addition, the quick rotation of international counterparts made it difficult to establish mutual trust and close working relations.¹⁸⁴

Interviews also showed that modes of interaction and strategies toward local partners and institutions differed tremendously on the municipal and central levels in Kosovo. On the municipal level, the OSCE successfully co-located international experts and newly recruited Municipal Elections Officers (MEOs) for the 2000 elections and most MEOs never experienced any difficulties in communicating with their OSCE counterparts.¹⁸⁵ As they received more and more responsibilities from 2000 onward, they never felt dominated by the OSCE, but gladly accepted its permanent support and advice. Some interviewees explained that MEOs still saw themselves as OSCE personnel and did not think that the CECS had the capacities to run an election. In the 2007 elections, this led to the bypassing of official lines of communication when MEOs decided to communicate directly with the OSCE Electoral Division, but not with the Secretariat in emergencies.

When the CECS was established in 2003, the OSCE Electoral Division provided basic training and capacity-building was mostly implemented through direct contacts and close cooperation between counterparts in each agency. The CECS was designed to actually mirror the structure of the OSCE Electoral Division. However, most of the Secretariat's personnel left the institution after a short time. In 2007, only one person with experiences from the 2004 elections was still employed there. No continuity of working relationships

180 Interview with former Head of UNMIL ED, New York, June 2009.

181 Interviews with NEC Commissioners, Monrovia, April 2008.

182 Interview with UNMIL representative, Monrovia, April 2008.

183 Fifty-four CEA's (three per county), 105 ESOs at county level, 22 were assigned to headquarters.

184 Interview with former CEC member, Pristina, March 2008.

185 Interviews with MEOs in Pristina, Peja, Obilic, Mitrovica, and Kosovo Polje, March 2008.

and physical separation in different buildings hampered communication. Personal animosities between the top management of both institutions led to a communication breakdown between 2004 and 2007 according to interviewees.¹⁸⁶ The first instance of co-location of OSCE and Secretariat staff occurred before the 2007 elections. Both sides valued the experience and thought that an early co-location in 2003 would have led to better results regarding the training, interaction, and institution-building of the Secretariat.¹⁸⁷

One interesting aspect of the interaction between the OSCE and the CECS are the NPOs at the OSCE Electoral Division. While some interviewees stressed that NPOs were the perfect link to the CECS whose employees rarely spoke English well enough for direct communication, others felt that the typically young Kosovar NPOs caused serious problems – not only because seniority plays a large role in Kosovo society, but also because the well-paid NPOs made the position of the OSCE even stronger. The head of the Secretariat remarked that it is almost impossible to take over responsibilities given such a strong counterpart as the Electoral Division with its reserved powers and extensive personnel and resources.¹⁸⁸ Several interviewees stressed the negative consequences of this situation. Whenever the OSCE took the lead, the Secretariat leaned back and said, in the words of one Kosovar: “Fine, you do it, you’re better at it anyway.”¹⁸⁹

As in the case of Kosovo, interviewees in Liberia criticized the level of preparation of the international personnel before their deployment. Some UNMIL staff in 2004 seemed to have thought they would encounter local actors with little or no knowledge and capacities. These wrong assumptions and possibly other prejudices toward Liberian partners led to considerable tensions at several points during the mission.¹⁹⁰

The Electoral Division followed the IFES recommendations¹⁹¹ by locating its staff in the same building as the personnel of the NEC. Legal and electoral experts moved to the bottom floor while all NEC staff resided on the top floor – sending a strong message with this simple move that it was Liberians who were in charge of the elections.¹⁹² Both NEC and UNMIL interviewees saw this co-location as the single most important factor for the success of the elections and the general positive cooperation between Liberians and internationals during the electoral process.¹⁹³ Generally speaking, the co-location during the 2005 elections constituted probably the strongest level of cooperation between external and internal actors UNMIL-wide. Every international expert had a direct local counterpart.¹⁹⁴

The Electoral Division held meetings every morning at the NEC building. Furthermore, there were bi-weekly meetings of all UNMIL sections with the NEC and international partners such as IFES, the International Republican Institute, the National Democratic Institute, etc. Officially the NEC called such meetings. According to interviewees, the NEC always took the final decisions on what UNMIL legal experts suggested after having consulted with two Liberian legal counselors. Most of the time issues were discussed at a roundtable with the NEC having the final word. However, the UNMIL legal experts provided

186 Interviews with OSCE ED staff, March 2008.

187 Interviews with OSCE ED and CECS staff, March 2008.

188 Interview with CEO of the CECS, March 2008.

189 Interview with OSCE Field Election Specialist, Peja, March 2008.

190 Interview with NEC training officer, Monrovia, April 2008.

191 A suggestion by IFES was that “at headquarters could be other long-term technical advisors to assist with specific aspects of the electoral process. As possible, technical advisors should partner with NEC’s permanent staff at headquarters to promote capacity building and to provide the NEC with technical elections expertise.” Palmer et al., 2004, p. 34.

192 Interviews with UNMIL and NEC officials, Monrovia, November 2007 and April 2008.

193 Interviews with UNMIL and NEC officials, Monrovia, November 2007 and April 2008.

194 Interview with UNMIL official, Monrovia, April 2008.

most of the suggestions and initiatives and set the agenda. Interviewees from UNMIL and the NEC stressed that the cooperation was professional and marked by a high degree of mutual respect. The former head of the Commission highlighted in a meeting with the research team that the role of the internationals was only supportive and that they were not driving the process. As a result, the local actors felt free to reject suggestions made by the internationals when having the feeling that they were unlikely to succeed.¹⁹⁵

In addition, the UNMIL Electoral Division often used symbolic measures to strengthen the NEC's standing and to downplay its own role. Though international staff drafted most of the official press statements, it was always the Commission's spokesperson who delivered it to the Liberian media. The head of the Electoral Division, on the other hand, refused to be interviewed by either national or international media always referring to national commissioners because "they were in charge."¹⁹⁶ Residing on the bottom floor of the NEC building contributed to that image as well.

Both NEC and UNMIL Electoral Division personnel stressed the high level of mutual respect and cultural sensitivity during the period of co-location at the NEC building. Local ownership was secured through the way external and internal actors communicated and cooperated on a daily basis. This was not based on manuals or guidelines, but mostly on personal decisions as well as individual work philosophies and attitudes. Many international employees including the former SRSG stressed the benefit of a non-executive mandate: Such a mandate forces a mission and its employees to be inclusive and to actually sell their advice and projects to their local partners.¹⁹⁷

On the local level, UNMIL's initial plan for the field structure was to deploy the National Elections Commission magistrates at the same time as the international CEAs. Their deployment was, however, delayed.¹⁹⁸ The absence of the magistrates in the counties and the tight timeframe of the elections forced the international CEAs to start the preparations for the elections from scratch and to establish contacts with local authorities and leaders without the involvement of their local counterparts. UNMIL personnel thought that waiting for the magistrates would have entailed postponing the registration period which in turn would have affected the remaining electoral preparations. As a result, tensions were created between magistrates and CEAs. The latter felt that the magistrates were not making a committed effort to perform their tasks, whereas the magistrates complained that the CEAs treated them as subordinates and tried to do their job.

During a focus group interview with magistrates from the field, the participants recalled the communication problems they had with their CEAs during the electoral period.¹⁹⁹ In the beginning, the international staff took a very dominant role. As they were in charge of all UN resources including cars and office equipment, teamwork very much depended on the working style and personality of the individual CEA. Many stuck to the official rules and limited the locals' access to UN equipment. Others went beyond the rules and several even taught their counterparts computer skills in their free time. Some magistrates voiced their beliefs that the initial dominant behavior of their CEAs was a reflection of the overall policy that UNMIL's top management had adopted during the first phase of the mission. Once the head of the Electoral Division and the SRSG had changed, behavior in the field

195 Interview with former NEC Commissioner, Monrovia, November 2007.

196 Interview with former Head of UNMIL ED, Accra, June, 2008.

197 Interview with former SRSG, Monrovia, November 2007.

198 IFES had funded a trip to Ghana for NEC magistrates to observe the December 2004 elections. Though IFES and the ED normally worked quite closely during the process of electoral assistance in Liberia, this incident shows that some miscommunication between international agencies remained.

199 Focus group interview with assistant magistrates, Monrovia, IFES Office, April 2008.

changed accordingly. New UNMIL teams briefed the CEAs on how to share more information and responsibilities with their local counterparts.²⁰⁰

4.6 Training and Transfer of Tasks

Joint electoral training activities represent interesting cases for local ownership in both countries studied by the project. Successful training is a prerequisite for the transfer of tasks and responsibilities. However, in interviews conducted on training and capacity-building, national interviewees also stressed the other side of the training issue: pre-deployment training for international actors to enable them to fulfill their tasks in an efficient and culturally sensitive manner.

As mentioned above, there were clear differences in the capacity- and institution-building processes that the OSCE implemented on the national and municipal levels in Kosovo. On the latter, MEOs and the national staff of the Electoral Division of the OSCE implemented a program of training and gradual transfer of responsibilities. All interviewees highlighted the good quality of the training delivered by UNMIK, OSCE and its sub-contracted partners. MEOs stressed that the training over the years and the step-by-step transfer of responsibilities into their hands showed a clear strategy by the OSCE Electoral Division.²⁰¹ Capacity-building started with co-location in the first elections, moved to supervision and then advice by the OSCE. Already in 2002, the municipal officers held sole responsibility for the implementation of operational plans in accordance with the OSCE's Strategic Plan from 2001.²⁰²

The same plan foresaw that the CEC, its future Secretariat and the ECAC would become independent by 2004 with only a limited advisory and assistance role for the OSCE. But the CEC and its Secretariat received only partial responsibilities for some tasks in the 2004 general elections.²⁰³ As has been pointed out before, in 2007 the OSCE even took some of the transferred tasks back because it felt that the Secretariat was incapable of organizing the elections and that there was a serious risk of complete failure.²⁰⁴ According to several interviewees, the reasons for this outcome were a number of factors that hampered transfer and ownership at the central level. One was the decision by a former head of the Electoral Division to create a new electoral management body from scratch in 2003 instead of applying the "Bosnian model" of transferring NPOs from the Electoral Division of the OSCE to the new institution. In addition, the recruitment of staff for the CECS turned out to be very difficult as did maintaining trained and experienced staff at the institution. Its employees were much less experienced than their Kosovar counterparts at the OSCE and received only a tenth of their salary. Thus NPOs could not be persuaded to take a job at the Commission Secretariat, but remained at the OSCE.²⁰⁵

While even some Kosovar NPOs at the Electoral Division were in favor of taking responsibility away from their CECS counterparts during the 2007 elections, most interviewees stressed that local ownership on the central level would have been possible and should have been implemented at the outset of the mission. Just as on the municipal level, an early and gradual transfer of tasks, co-location, and continuous training could have led to a better result. Co-location of the CECS and the Electoral Division first happened in 2007. Interviewees from both sides praised this approach and the new quality

200 Ibid.

201 Interviews with MEOs in Pristina, Peja, Kosovo Polje, Mitrovica, and Obilic, March 2008.

202 OSCE, Strategic Plan, p. 15.

203 Website of the OSCE in Kosovo at <<http://www.osce.org/kosovo/13208.html>> (last visited April 9, 2010).

204 Interviews with OSCE ED staff and MEOs, Pristina, March 2008.

205 See M. Duettmann, Elections in Post-Conflict Countries, KAIPTC/ZIF Report, 2009, p. 107.

of interaction, asking themselves why this had not been possible before. Nevertheless, it was already too late for full local responsibility for the general elections in 2007. The fear of the international community that the elections could fail prevented ownership on the central level.²⁰⁶ UNMIK and the OSCE rushed back into control. One interviewee said that especially in elections only failure enables one to learn.²⁰⁷ But the international community did not allow that to happen.

As in Kosovo training played a large role in creating local ownership for Liberian electoral management bodies. The 2004 report of the IFES assessment mission had claimed that the technical capacities of the NEC were not sufficient.²⁰⁸ IFES recommended that the commissioners and their permanent staff had to improve their technical skills and knowledge through intensive external technical assistance and training. The aim was to build an institution that “will have the technical expertise to administer future elections without substantial involvement from the international community.”²⁰⁹

The UNMIL Electoral Division had extensive consultations with the NEC to identify, formulate and reach consensus on viable procedures within the parameters of the existing constitutional provisions and regulations on elections, which then were incorporated into manuals and other training materials. The task of designing, developing and writing the manuals fell to the Electoral Division Training Unit. Thus most of the actual first drafting of the manuals was done by international staff though in close consultations with national counterparts. According to the NEC’s main training officer, a joint team of three international and three national training officers was in charge of all strategic and operational decisions on training at the Commission’s headquarters.²¹⁰ As the international personnel tended to be more experienced than their counterparts, the production of the training manual can be seen as on-the-job training for NEC personnel. After the production of the manual, the headquarters team was split into three mixed teams that ran training centers for the international CEAs and the national assistant magistrates. The lead during the individual training activities was shared between the national and international training officers, but the internationals still managed the overall process.²¹¹

After the 2005 elections, UNMIL stressed to the NEC that it now would have to take the full lead for the training for the by-elections – internationals would no longer conduct any training, but only observe.²¹² While interviewees from the NEC highlighted that from the first by-election onward the NEC was completely in charge of all electoral aspects with international personnel merely advising, former UNMIL officials saw this development only in the second round of the by-elections. According to them, even during the first by-election UNMIL and the Electoral Division did most of the work. The Commission, in their view, did not seem willing to take over. This changed only in the run-off of the second by-election, mainly because the internationals stepped back and the national counterparts were indirectly forced to take over.²¹³

There are, of course, two sides to every training process. It demands, on the one hand, the willingness to learn, and, on the other, the ability to teach. It seems clear that Liberian actors displayed the first. In its final report the Electoral Division praised the NEC: “The NEC, realizing the need for skills training, embraced the learning process, and participated

206 Interview with Head of ED, Pristina, March 2008.

207 Interview with Electoral Expert, Accra, June 2008.

208 Palmer et al., 2004, p. 7.

209 Ibid., p. 8.

210 Interview with NEC training officer, Monrovia, April 2008.

211 Ibid.

212 Interview with former UNMIL ED Media Relations Advisor, Monrovia, April 2008.

213 Ibid.

in the intensive training programs conducted by the Electoral Division and its partners with enthusiasm and diligence.”²¹⁴ However, several interviewees – both national and international – highlighted that not all UN personnel were up to the challenge of conveying their knowledge.²¹⁵ The impression emerges that international staff is sometimes not sufficiently prepared before deployment for the tasks they have to implement. They are also not fully trained on issues related to ownership and the handover of responsibilities. There further seems to be a lack of guidance by the mission leadership on these matters.²¹⁶ Especially in electoral assistance missions, international staff is frequently only hired for a short time and given clear deliverables and benchmarks. Therefore, they sometimes tend to look toward election day, but fall short on a long-term perspective that could help to work toward capacity-building and local ownership. During the focus group interview conducted for this project, assistant magistrates stated that they learned most from international colleagues who were eager to learn from them and who treated them with respect.²¹⁷ Another interviewee pointed out that international electoral experts often encountered extreme logistical problems and cultural difficulties which made them distrustful toward the local population.²¹⁸ As a participant in ZIF’s 2007 expert workshop on local ownership already stated: “An *Übermensch* would be needed on both sides of the relationship to implement local ownership in a productive way – where both sides are patient, insightful, open-minded, good communicators, and are willing to learn and change.”²¹⁹

4.7 Conclusions: Local Ownership and Elections in Kosovo and Liberia

Comparing the achievements of the electoral divisions of the two UN missions in Kosovo and Liberia, it must be kept in mind that elections are different from most other activities undertaken by a peace operation. Work in an electoral division is by necessity focused on a single event – election day – which must be brought off successfully under the watchful eye of all stakeholders.²²⁰ This event- and output-oriented approach is difficult to reconcile with long-term goals such as capacity-building and sustainability. In practice, it is often simply about “getting the job done” within tight deadlines even if that means that international experts quickly “type things up” for their national counterparts.²²¹ If elections fail, it is always the international assistance that will be blamed – regardless of what approach toward local ownership was chosen.²²²

Taking a closer look at the specific approaches of UNMIK and UNMIL to local ownership, it becomes apparent that both, mandates and personalities greatly influence outcomes. In over eight years UNMIK’s OSCE pillar under an executive mandate was only able to achieve partial local ownership. Efficient electoral structures were established on the municipal level, but according to interviewees UNMIK failed with the central electoral management bodies. The verdict of the Council of Europe after the 2007 elections – the fifth under UNMIK auspices – supports this view: “Formally, these elections are the responsibility of local institutions, primarily the CEC. However, due to the short notice, it became imperative that the international community, through the OSCE, take much more responsibility for the process than was foreseen. ... [I]t seems that the international

214 Electoral Division, Final Report on the 2005 Elections, p. 57.

215 Interviews with NEC commissioners, assistant magistrates, and IFES Country Director, Monrovia, 2008.

216 Interview with UNMIL official, Monrovia, April 2008.

217 Focus group interview with assistant magistrates, Monrovia, IFES Office, April 2008.

218 Interview with IFES Country Director, April 2008.

219 ZIF Workshop Report, 2007, p. 13.

220 Interview with UNMIL official, Monrovia, April 2008.

221 Interview with former UNMIL ED media relations advisor, Monrovia, April 2008.

222 Interview with UNMIL official, Monrovia, April 2008.

community has not met its obligation to contribute to capacity-building in the field of elections.”²²³

Lack of early planning cannot be blamed: A clear path toward the “Kosovarization” of all electoral bodies was laid out as early as 2001 by the OSCE Electoral Division’s Strategic Plan. Rather it seems that personal decisions by senior staff and external political pressure hindered local ownership at the central level. Some well-meaning strategies backfired. The hiring of locals as NPOs turned the OSCE Electoral Division itself into a “Kosovarized” institution, but failed to improve local ownership as NPOs refused to join the CECS.²²⁴ Instead they preferred to remain at the Electoral Division or looked for more lucrative employment outside Kosovo.

In Liberia, an altogether more positive picture with regard to the establishment of local ownership emerges. Both Liberian and international sources consistently praised the role played by the UNMIL Electoral Division which gave their local partners strong support, but left them in charge of the electoral process. It is probably no accident that faced with a mission with a non-executive mandate, Liberian actors felt free to modify or reject international advice – although they rarely did so. Furthermore, a number of symbolic measures contributed greatly to strengthening the NEC’s standing. UNMIL staff not only moved into the bottom floor of the NEC building, they also left the media limelight to local actors. These measures were not based on UN manuals or guidelines, but resulted from the initiative of individuals. Personalities were also responsible for making the co-location scheme at the NEC building successful. Local as well as international interviewees stressed the high level of cultural sensitivity and mutual respect that marked their shared working experience.

In fact, the UNMIL Electoral Division itself acknowledges in its final report that mandates and personalities are decisive: “Mandates must be clarified – those responsible for formulating policy must stick to their assigned role [...]. The level of collaboration and the nature of the collaboration depend largely on how well nationals and internationals, as well as international partners, can integrate. This should be taken into consideration as far as possible when recruitment for elections is conducted.”²²⁵

When co-location was finally tried in Kosovo in 2007, it proved remarkably successful there as well. Evidence from both case studies thus clearly indicates that capacity-building for electoral management benefits markedly from daily interaction between local and international actors. Even taking into account the event-driven short-termism inherent in all international election support, co-location remains a valuable tool as it dovetails easily with the team-oriented working style typical in this field. Yet it needs to be emphasized once again how important personalities are in this context. The decision to co-locate (or not co-locate) was in both UNMIK and UNMIL taken by senior mission staff. Successful cooperation also calls for qualified international personnel with an acute sensitivity for intercultural problems and a deep understanding of local ownership issues and the instruments for mentoring, advising and the actual transfer of responsibilities.

223 CEEOM Preliminary Statement, November 18, 2007, available at <http://www.coe.int/t/dc/files/events/2007_kosovo/prelim_statement_en.asp> (last visited April 9, 2010).

224 Due to the expected pay-cut of such a move and the known lack of capacities at the CECS.

225 Electoral Division, Final Report on the 2005 Elections, p. 62.

5. Conclusions and Findings

The research confirmed that there are essentially three unanswered questions underlying the relationship between peacebuilding and local ownership: First, it is unclear what local ownership actually means; second, there is a lack of guidance concerning whom to select as local partners; and third, how and by whom should success in peacebuilding be measured best?²²⁶

The answers to these questions depend on the underlying objectives of international peacebuilding programs. Local ownership might generally be easier to achieve if international activity applies a communitarian approach that aims to restore a given status quo rather than if the intervention engages in social engineering driven by a liberal peace agenda. It might be argued that the more the international post-conflict assistance seeks change in local attitudes and beliefs, the more difficult it is to ensure local ownership. Whether a communitarian or a cosmopolitan lens is used to guide an international intervention also has significant influence on the selection of local partners. In how far does the international community cooperate closely with agents of change or compromise for the sake of peace with existing power holders (who might be reluctant to change)? Is it the state and its institutions that matter as partners in international peacebuilding or should international actors also engage with civil society and the general public?

Concept and Definition

The lack of clarity concerning the definition of local ownership made it difficult to operationalize the concept for the research questions. Many interview partners had difficulties in understanding the term “local ownership” mistaking it, for example, for property ownership. As a consequence, many conclusions on the understanding of and approaches to local ownership had to be drawn indirectly, for instance by enquiring how patterns of interaction between local and international stakeholders worked in practice.

Mirroring the academic discourse, most interview partners commented on local ownership as both a process and an outcome. It was stated that genuine local ownership exists when local actors design, manage and implement institutions or projects themselves. However, international interview partners in Kosovo in particular argued that local ownership would also be implemented through a buy-in of local partners into internationally designed and supervised programs. Interviewees identified or described three basic means to achieve local ownership in newly created institutions: Besides a gradual handover of planning, management, and oversight competencies to local actors, local participation in relevant decision-making processes and various forms of capacity-building were seen to be the main means to effect a local appropriation of international programs and ideas.

Perspectives Matter

As regards the selection of local partners, the research demonstrates that the United Nations applied a state-centric approach to its rule of law-related activities and in the field of electoral assistance. In particular, UNMIL’s approach to justice reform in Liberia shows that traditional and/or informal actors are mostly left outside the peace operation’s purview.

226 Cf. L. Panarelli, “Local Ownership of Security Sector Reform,” USIP Peace Brief No. 11, Washington, DC, 2010, p. 1.

This finding does not come as a great surprise for a member state organization such as the United Nations which sees the state and its institutions as the entry point into the host country's society.

Whether this approach achieved or fostered local ownership in newly created institutions or systems depends to a large extent on the perspective of the viewer. For example, it may be argued that the Liberian judiciary is locally owned by state actors, but not by the rural population which lacks access and often prefers traditional dispute settlement. It may also be maintained that Kosovo's judiciary is appreciated as "theirs" by the Kosovo Albanians, whereas Kosovo Serbs reject it.

Moreover, findings on local ownership also look different depending on the level of analysis. UNMIK governance and lawmaking is an interesting case in point. By granting Kosovars more and more participatory rights and responsibilities, UNMIK could state that it generally fostered local ownership with the establishment of the JIAS and even more so with the PISG. However, in the justice sector these developments were paralleled by tightened international control leading to a de facto withdrawal of participatory rights in the administration of justice and justice-related lawmaking. Yet as the judicial appointment process by UNMIK shows, there might still be much local ownership in the implementation of relevant programs or projects even if international actors heavily dominate the general sector policy. A similar example in this context is the OSCE election policy in Kosovo. While the organization determined electoral policies for the 2007 elections in a heavy-handed manner at the central level (despite its "Kosovarization" rhetoric), the cooperation between international and local stakeholders continued to work very well on the municipal level leading the OSCE to early transfer many responsibilities to Kosovar election staff.

Differences between Executive and Non-Executive Missions

The approaches undertaken to promote local ownership significantly differed in the executive mission UNMIK and the non-executive mission UNMIL. Endowed with full governance powers and without recognized Kosovar partner institutions at the outset, local ownership was generally more problematic in Kosovo than it was the case with UNMIL in Liberia where a national government bore primary responsibility for public policy. While UNMIK needed to find the right balance of international intervention and achieving local acceptance of newly created institutions, UNMIL's main role was to provide rule of law and electoral assistance in support of Liberian policies. Emphasizing Liberian ownership, UNMIL refrained from putting undue pressure on the Liberian government, for example by withholding development funds when certain reform objectives were delayed or not implemented at all. As a result of its executive mandate, UNMIK was generally more preoccupied with regulation and institution-building requiring strategies for a buy-in of local stakeholders by means of local participation in corresponding decision-making processes. In contrast thereto, UNMIL's main focus lay on technical advice and on capacity-building for existing local structures.

The research confirmed that the relationship between international and local counterparts is in many ways asymmetric. As was shown with respect to UNMIK, there is a tendency in executive missions that international actors dominate the setting and push programs through that they deem to be necessary for the implementation of the mandate. In non-executive missions like UNMIL, local power structures and knowledge generally play a much more important role. If local actors cannot easily be forced to adopt or to implement certain policies, there is more room for their priorities and pace. As the Liberian case demonstrates, this might also lead to a certain degree of reform inertia or to the use of co-

located international staff members for work assignments or purposes that contravene international mission policy.

Some surprising findings concerning local ownership could be made in both missions. While some interviewees in Kosovo argued that the notion of local ownership could not be reconciled with an executive mandate, the statements of many local stakeholders indicated that certain UNMIK key projects in the justice sector do indeed enjoy significant support of relevant Kosovar circles. Focusing on the local judiciary as such, on the new Kosovo Judicial Council and Ministry of Justice as well as on the new criminal and criminal procedure legislation, there are some indications that UNMIK was able to create (at least some degree of) local ownership in relevant new institutions and systems despite its executive powers. Of course, the caveat must be made in this context that it is always extremely difficult to arrive at sound conclusions regarding the acceptance by local stakeholders or even the general public. Moreover, the research design did not envisage a representative survey of relevant local opinions, but relied on anecdotal evidence in particular with regard to the views and attitudes of local counterparts.

The research revealed a somewhat inverted situation with respect to the non-executive mission UNMIL. Although the responsible Liberian government strongly insisted on national sovereignty and might thus be presumed to be the local owner in justice- and elections-related policy, doubts arise as to how far this ownership is not just of formal nature. Various interviewees stated that much of the substantive preparatory work for relevant policy- and decision-making was undertaken by UNMIL or other international staff who remain in the back nevertheless. Moreover, the argument can be made that real Liberian ownership would have required much more international intervention to ensure that the majority of the population living in rural areas actually has access to (and therefore appreciation of) the justice system and other state institutions legitimized by international assistance.

Different Working Styles in Rule of Law and Elections Sectors

Major differences in the approaches to local ownership also existed with respect to the sectors researched: electoral administration and the rule of law. While the former is often referred to as an event-driven business that operates with clear and short-term objectives, the latter is a core governance issue and requires long-term commitment. It may be argued that the nature of the electoral work is generally more technical and “hands-on” than justice-reform activity or related capacity-building. Therefore, it seems that the cooperation between local and international election officers was easier than for example between local and international legal experts and judges. In many cases, members of the latter professional group are used to do solitary and reflective work making it more difficult for them to “co-govern” or to cooperate within a mixed team than is the case with team-oriented “practitioners.” This finding is confirmed by the fact that the cooperation between international and Kosovar judges seemed to be more problematic than the cooperation between their more team-oriented prosecutor colleagues.

Leadership and Personalities Matter

How the cooperation between international and local counterparts works in practice depends to a large degree on the mission leadership. For example, decisions by the senior management have a great influence on how the mission mandate is interpreted. Whether the leadership applies a heavy-handed approach or walks softly in crucial political

situations has a significant impact on local ownership. In most cases, it is the mission leadership that determines when and under which conditions international responsibilities are transferred to local actors. It also depends on the foresight and persistence of the senior managers to implement relevant transfer strategies. Many interviewees observed that local ownership-related policies are often based on ad hoc decisions rather than on long-term planning. Moreover, local ownership might remain rhetoric because international actors are unwilling to allow their local counterparts to make their own mistakes. Furthermore, a transfer of responsibilities from international into local hands might be delayed because international staff members are afraid of losing their jobs.

Adequate social competence and cultural awareness of international actors are decisive for a fruitful work relationship between local and international partners and hence the creation of local ownership. This applies to each working level of a peace operation. In many cases the leadership style of the senior management toward local counterparts is reproduced in the interactions between international and local actors on the lower levels. The research revealed that changes in the mission leadership that entailed substantial alterations of local ownership-related attitudes and policies had a significant effect on the field level. However, it was also observed that misconduct or failures on the lower levels compromise the reputation of a peace operation as such and might thus seriously impact the willingness of local actors to cooperate with the international presence.

Best Practices to Foster International-Local Cooperation

International actors mostly lack sufficient knowledge of local structures and traditions. Local actors often lack adequate technical knowledge and professional skills. It can be maintained that successful peacebuilding is best achieved when both international and domestic resources are mobilized and complement each other to reach a common goal for example in building up new public institutions or systems. In the words of Donais, such cooperation requires “an ongoing conversation across the international-local cultural divide” that is to achieve “a basic consensus on the shape of the peace to be built.”²²⁷ The research showed that there are no blueprints on how to bring about this conversation. However, there are a couple of best practices that a mission should explore to improve the international-local interface and interaction.

This includes in principle the early and continuous involvement of local stakeholders in relevant decision-making processes, in particular in the case of an executive mission. Sound local participation can only function if adequate language support is provided throughout the process. Moreover, local participation is only meaningful if international actors respect local thinking and take local proposals seriously. A serious participation process will most likely involve different timelines and decision-making procedures than originally envisaged and therefore calls for much flexibility on behalf of all actors involved.

Co-location schemes have the great potential of bringing local and international actors closely together and helping them to learn from each other. Particularly in the area of electoral support, the research results have proven the clear benefits of co-location. However, it also carries the risk that international-local cooperation worsens, especially when international staff does not possess sufficient soft skills. Interview partners indicated that co-location programs are likely to fail if the disparities between international and local partners are too high, for example if co-located international staff arrive with big cars and receive well-equipped office spaces whereas their local counterparts struggle with

227 Donais, 2009, p. 19.

everyday living conditions. Nevertheless, since 2011 the UN is making co-location a prerequisite for its missions: "International personnel should be physically co-located within national institutions, as long as their safety and security can be ensured. This principle should be adopted by all international actors in conflict-affected States. For the United Nations, exceptions to this policy should have to be justified."²²⁸

A mission should certainly consider increasing local capacity-building by means of mentoring, advising, and on-the-job learning. However, it is not easy to make the work relationship between local actors and international mentors and advisors fruitful. Internationals must be very careful not to appear to be patronizing or babysitting their local counterparts who will possess important knowledge and resources required for a sustainable intervention.

The research also showed that the increased engagement of and cooperation with younger local staff members can be a beneficial undertaking. This group might be less involved in the conflict history and more willing to accept international ideas and working styles than their older colleagues. Yet youth can also be extremist and adopt retrograde attitudes. And even if young and able local counterparts are available to promote new thinking and management strategies, international actors must be aware that the involvement of the young might come at the cost of the older generation of local professionals. Such policy might unduly disrupt local traditions and seniority and therefore hamper the creation of local ownership in general.

Similarly the involvement of the diaspora or of regional expertise offers many chances to bridge the local-international divide. For example for UNMIL, it proved to be very useful to engage West African facilitators to break up a Liberian reform deadlock. Western facilitators would most likely not have been accepted so well, partly because of their colonialist past. Another example is the active cooperation with qualified legal experts (and translators) from Slovenia or Albania in the drafting of the new criminal and criminal procedure legislation in Kosovo. This approach ensured regional compatibility and contributed to the acceptance of the new legal systems by the Kosovar legal community and other relevant circles. However, local stakeholders might also resent the input of experts of the diaspora or of neighboring countries. Moreover, such experts might not be neutral actors, but be strongly affiliated with the conflict history and promote one-sided governance strategies or reform policies.

At least in the short run, the use of NPOs is an important tool to bring qualified local knowledge into international program planning and implementation. However, the OSCE's Kosovarization policy of the electoral administration demonstrates that a heavy reliance on NPOs tends to create an alternative structure that stands in some rivalry to the local administration. International organizations are likely to attract the best-qualified local professionals because they pay much higher salaries than local authorities. This situation might weaken local authorities and also raises the question of sustainability in employment and capacity-building. In particular in post-conflict societies with much brain drain international actors should consider employing qualified local professionals as NPOs, but allow them to accept assignments for local administrations or universities in addition to their service to the peace operation.

Training is not just a major tool to improve technical knowledge and skills, but should also foster social competence and cultural awareness. Both local and international stakeholders need these qualities in post-conflict peace operations. This means that successful

228 United Nations, "Civilian capacity in the aftermath of conflict: Independent report of the Senior Advisory Group", 2011, p.13.

peacebuilding requires that local as well as international actors should receive training for hard and soft skills they are missing. When it comes to training for local professionals to learn about newly established institutions and systems, qualified local trainers will be the best persons to transmit the knowledge to the trainees in most cases. However, the UNMIL case study has shown that local stakeholders such as lawyers might prefer that international colleagues provide training because they are regarded to be more competent than their local colleagues. In terms of methodology, it appears that practical and interactive training is in general more fruitful than abstract and theoretical classroom teaching. Moreover, a combined approach to legislative drafting and training is helpful as the legislative process concerning a new Law on Courts in Kosovo demonstrates.

Expectation Management: Change or Stability?

Success is difficult to measure in international peacebuilding. Yet it is safe to say that many post-conflict scenarios exist where international assistance seems to produce only unsatisfactory results. To some extent this is due to an unrealistic or undefined definition of the objectives of a given international engagement. Is a peace operation set up to promote change in the sense of implementing a liberal peace agenda, or is it driven by a desire to stabilize a post-conflict society, if necessary with the support of local power structures that violate or compromise international standards and principles? The required length and duration of an international engagement in a post-conflict scenario depend to a large extent on the approach taken.

What is certainly needed to improve the situation is a better and more realistic expectation management of what a peace operation is able to achieve. This relates both to the target societies as well as to the donor nations. Too often post-conflict populations attach high hopes to the international engagement at the outset of a peace operation, but become very frustrated once they realize that their deplorable living conditions will not change quickly. It goes without saying that new institutions and systems established by or with the support of the international community are not likely to become locally owned if they fail to deliver the promised results on the ground.

But also donor governments must better relay the aims and costs of international peacebuilding to their electorates. Irrespective of whether a peace operation engages in social engineering or simply in ad hoc crisis management, successful international assistance requires sustainable and long-term efforts. To arrive there, Western politicians and taxpayers must better understand that managing failed states belongs to the genuine governance tasks of the international community (and not just the broken state authorities) and that a sound and successful engagement will possibly involve substantial international involvement on a long-term basis. Abolishing or integrating harmful or disruptive social structures or even changing a post-conflict society's traditions and beliefs is in most cases a task that will take generations to be completed.

It seems clear that if the international community wants real change in a post-conflict society, it must invest in it and also alter its own approaches to post-conflict assistance and governance. To mitigate the dilemmas relating to the intrusiveness of and dependency on the international intervention, international actors should sooner rather than later grant substantial ownership to local key actors in the planning and implementation of peacebuilding projects and programs. Such policy would require local actors to define their priorities and would make them responsible for their implementation. It would involve a learning-by-doing approach that allows local actors to make their own mistakes and to make progress at their own pace.

If substantial ownership is not an option in certain phases of a peace process, international actors should at least spend considerable energy and resources on achieving a buy-in of local stakeholders in newly established institutions or systems. This would include a better “conversation” between international and local actors building upon the best practices outlined above. As an exception and based on prudent reflection, international actors should also consider making their support conditional on the implementation of certain reform activities by local actors.

It has often been pointed out (and is re-emphasized in this report) that meaningful international assistance must be flexible in approach, efficient in delivery, and sustainable in support.²²⁹ Besides a better expectation management of its constituencies, the peacebuilding community should introduce longer budget cycles than presently used. It should also consider simplifying its procurement and deployment procedures and make them more flexible to suit the local context better. Moreover, international organizations and donor nations should rethink their coordination mechanisms to ensure that international assistance is delivered in a sound and fruitful manner.

Final Remarks

This research indicates that international interventions can work if they are well-designed and implemented in a sustainable manner. It also reveals that international interventions can be locally owned, even if they are introduced via international actors. This happens when international actors win the hearts and minds of the relevant local stakeholders or population, possibly without or against the will of the local government. International interventions can also be locally owned if they alter local (legal) traditions, i.e. when they are introduced with sufficient local participation and the consent of local key actors.

Meaningful international assistance is context-sensitive, takes time, and requires substantial financial commitments. Quick fixes do not exist even if donor countries use a different rhetoric. International peacebuilding will only bear positive results if international actors match their interventions with a willingness to invest in change. It may be argued that the harsher the change desired, the more resources and time need to be invested. The smaller the investment, the more a peace operation will have to cooperate with local actors who violate international norms and standards. Initiating changes without sufficient backup and persistence might severely compromise international values and credibility. One open question is whether entering a post-conflict context half-heartedly causes more harm for the local context than does local “self-regulation” without any international involvement.

229 For an overview of the supply-side problems in international assistance see L. Nathan, “The Challenge of Local Ownership in SSR: From Donor Rhetoric to Practice,” in *Local Ownership and Security Sector Reform*, ed. T. Donais, DCAF Yearbook 6, 2008, p. 20.

6. Transfer of Findings and Future Research

The project presented major findings of the project at two validation expert roundtables in Berlin and New York in June 2009. A combination of practitioners and academics were present at both events. Further presentations at national and international conferences are already planned as well as a briefing for German parliamentarians and ministerial staff. For that activity ZIF is putting together a briefing note on local ownership. Further publications in academic journals are also envisaged.

In addition, the findings of the project were incorporated in ZIF's "Core Course Peace Operations" which takes place twice every year. The project's insights have already been used for ZIF's new joint training course with the German police and the German armed forces on "Mentoring and Advising in the Field" in 2010 and 2011. Additional research is envisaged on EULEX Kosovo's "Monitoring, Mentoring and Advising" scheme in 2011 and 2012.

Moreover, the center was able to acquire funding from the German Foreign Office for a follow-up project on rule of law. With the Rule of Law training program, ZIF provides induction training in close cooperation with the UN Department of Peacekeeping Operations (DPKO) for the responsible UN Judicial Affairs Officer as well as for a limited number of "rule of law resource persons" from developing countries.

Other issues to follow up on are co-location and the use of NPO schemes in various peace operations. Not only during the interviews in the field, but also when presenting the results to UN staff in New York, these issues have raised a lot of interest. There has thus far been a lack of knowledge on already implemented co-location schemes in peace operations. A closer look into the pros and cons of this measure could provide practical benefits for international missions. The same holds true for the employment and training of NPOs within the structures of an international peace operation. Whether or not this contributes to ownership and better national capacities or actually increases the problem of "brain drain", i.e. young national experts leaving the country for better jobs, needs to be analyzed in more detail.

Annex

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Nevertheless, it goes without saying that only the authors are responsible for the views expressed in this report.

List of Abbreviations

ABA	American Bar Association
CEA	County Electoral Advisor
CEEOM	Council of Europe Election Observation Mission
CEC	Central Election Commission
CECS	Central Election Commission Secretariat
COE	Council of Europe
CPA	Comprehensive Peace Agreement
DED	Department of Election Development
DEO	Department of Election Operations
DPA	Department of Political Affairs
DPKO	Department of Peacekeeping Operations
DSF	German Foundation for Peace Research
EAD	Electoral Assistance Division
ECAC	Election Complaints and Appeals Commission
EMB	Electoral Management Body
ESO	Electoral Support Officer
ED	Electoral Division (UNMIL)

ED	Electoral Division (OSCE)
ICG	International Crisis Group
IFES	International Foundation for Elections Systems
JIAS	Joint Interim Administrative Structure
KAIPTC	Kofi Annan International Peacekeeping Training Centre
KSPO	Kosovo Special Prosecutors Office
MEC	Municipal Election Commission
MEO	Municipal Elections Officer
NCSC	National Center for State Courts
NEC	National Elections Commission
NPO	National Professional Officer
NTGL	National Transitional Government of Liberia
PAE	Pan American Engineers Inc.
PISG	Provisional Institutions of Self-Government
SRSG	Special Representative of the Secretary-General
STO	Short-Term Observer
UNDP	United Nations Development Programme
UNMIK	United Nations Interim Administration Mission in Kosovo
UNMIL	United Nations Mission in Liberia
UNV	United Nations Volunteer
ZIF	Center for International Peace Operations

Topical Areas for the Questionnaire

- Interviewee's Function
- Definition and Concept LO
- Mission Mandate and LO (strategic level)
- Knowledge and Training and LO
- Project Management and LO (operational)
- Types of interaction (general)
- Types of interaction (local view)
- Types of interaction (international view)
- Dealing with existing structures
- Handover/exit
- Earlier experience/comparison

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Addy, David Nii, Technical Advisor, Kofi Annan International Peacekeeping Training Center (KAIPTC) and GTZ, Ghana, November 2, 2007

Agimi, Ilire, Researcher, Kosovar Institute for Policy Research and Development (KIPRED), Kosovo, September 28, 2007

Ali, Helen, Judicial Affairs Officer, LJSSD, UNMIL, Liberia, November 6, 2007

Andrews, Jonathan, Special Assistant to the Deputy SRSG for Recovery and Governance, UNMIL, Liberia, November 5, 2007

Appenzeller, Stephanie, Office for Internal Investigations, UNMIL, November 6, 2007

Arraiza, Jose Maria, Senior Human Rights Advisor, Human Rights and Rule of Law, OSCE/UNMIK, Kosovo, March 10, 2008

Autheman, Violaine, Legal Consultant, National Center for State Courts (NCSC), Kosovo, March 14, 2008

Ashford, Amanda, Senior Legal Advisor, OSCE/UNMIK, Kosovo, October 3, 2007 and March 15 2008

Azikiwe, Sandra, Civil Affairs Expert, UNMIL, Liberia, November 7, 2007

Bala, Zija, Executive Officer, Central Election Commission, Kosovo, March 14, 2008

Balant, Timothy, International Judge, UNMIK, Kosovo, March 17, 2008

Baraliu, Mazllum, Chief Executive Officer, Central Election Commission, Kosovo, March 13, 2008

Barclay, Corpu, Member, Committee on Election and Inauguration, Central Election Committee, March 12, 2008

Barley, Catherine, Special Advisor to DSRSG, Rule of Law, UNMIL, Liberia, November 10 and 11, 2008

Basha, Bujar, Project Liaison Officer, OSCE/UNMIK, Kosovo, September 28, 2007 and March 14 and 16, 2008

Berisha, Isuf, Senior Researcher, Kosovar Institute for Journalism and Communication, Kosovo, March 7, 2008

Blais, Xavier, Head of Pristina RO, Housing and Property Directorate, UNMIK, Kosovo, March 11, 2008

Bloch, Alain, International Judge, UNMIK, Kosovo, March 14, 2008

Boolell, Vinod, International Judge, UNMIK, Kosovo, March 18, 2008

Booth, Nick, Special Assistant to PDSRSG, UNMIK, Kosovo, October 1, 2007

Borg-Olivier, Alexander, Director, Office of the Legal Advisor, UNMIK, Kosovo, March 18, 2008

Brandt, Annette, Human Dimension Officer, OSCE/UNMIK, Kosovo, September 29, 2007

Buse, Martin, Attorney, Trainer, Kosovo Institute for Public Administration (KIPA), Kosovo, October 3, 2007

Buway, Dada, Senior Magistrate, National Elections Commission, Liberia, April 17, 2008

Callaghan, Marjo, Head, Corrections Advisory Unit, LJSSD, UNMIL, Liberia, November 5, 2008

Cassandra, Adriano, Civil Affairs Officer, UNMIL, Liberia, November 5, 2008

Clarke, Moses G., Program Associate, IFES-Liberia, Liberia, November 7, 2007, and April 15, 2008

Clausing, Silke, Legal Analyst, Legal System Monitoring Section, OSCE/UNMIK, Kosovo, October 3, 2007

Coleman, Felicia, former Supreme Court Judge, Counselor at Law, Dunbar & Dunbar, Liberia, November 2, 2007 and November 10, 2008

Cyllah, Almami I., Country Director IFES-Liberia, Liberia, November 7, 2007, and April 23 and 25, 2008

Cubbon, John, former Judicial Affairs Officer, UNMIK, September 29, 2008, telephone interview

Dalton, Nathan, Legal Officer, Department of Justice, UNMIK, Kosovo, March 13, 2008

Dampier, Harold, International Advisor, Kosovo Judicial Institute, OSCE, Kosovo, March 14, 2008

Dean, Robert L., Acting Director, International Prosecutor, Department of Justice, UNMIK, Kosovo, March 12, 2008

Dedeurwaerdere, Thomas, Project Manager, Capacity Building for European Integration, UNDP, Kosovo, October 1, 2007

Demolli, Haki, Director, Kosovo Law Center (KLC), Kosovo, March 19, 2008

Di Donatantonio, Roberto, Justice Expert, EUPT, Kosovo, March 12, 2008

Doss, Alan, Special Representative of the Secretary-General, UNMIL, Liberia, November 7, 2007

Duettmann, Martina, Democratization Officer, OSCE/UNMIK, Kosovo, September 28, 2007

Dugolli, Ilir, Head of Special Research Projects, Kosovar Institute for Policy Research and Development (KIPRED), Kosovo, September 28, 2007

Dumnica, Virgjina, National Program Analyst, UNDP, Kosovo, October 3, 2007

Dushi, Florian, Senior Advisor, Ministry of Justice, Kosovo, March 18, 2008

Ebba-Davidson, Jeanette A., Commissioner, National Elections Commission, Liberia, November 9, 2007

Enwall, Mike, Country Representative, International Legal Assistance Consortium (ILAC), Liberia, November 12, 2008

Fabiansson, Catharina, Montserrado County Coordinator, Civil Affairs, UNMIL, Liberia, November 9, 2007

Ferry, John, Consultant, National Center for State Courts (NCSC), Kosovo, March 19, 2008

Fields, John N., International Judge, UNMIK, Kosovo, March 7, 2008

Fofie, Alfred, Director, LJSSD, UNMIL, Liberia, November 5 and 6, 2007

Frahm, Michael, Senior Legal Officer, OSCE/UNMIK, Kosovo, October 2, 2007

Freeman, Senessee G., Senior Program Officer, IFES-Liberia, Liberia, April 24, 2008

Fromayan, James M., Chairman of the National Elections Commission, Liberia, November 7, 2007

Fulton, Hugh, Elections Technical Advisor, OSCE/UNMIK, Kosovo, October 2, 2007

Garbie, Nathan P., Deputy Executive Director for External Relations, National Election Commission, Liberia, April 22, 2008

Garsuah, Ansumana, Speaker, Traditional Council of Chiefs, Liberia, November 11, 2008

Gashi, Rame, Chairman, Chamber of Advocates of Kosovo, Kosovo, March 14, 2008

Geekie, Russell, Public Information Officer, UNMIK, Kosovo, October 3, 2007

Gibson, Charles, National Legal Advisor, LJSSD, UNMIL, Liberia, November 7 and 12, 2008

Gillespie, Joseph K., Head, Human Rights and Protection Section, UNMIL, Liberia, November 3, 2008

Gogoll, Yvonne, Associate Legal Officer, Office of the Legal Advisor, UNMIK, Kosovo, March 12, 2008

Golegio, George, Chief Chairman of Traditional Council of Chiefs, Liberia, November 11 and 13, 2008

Gongloe, S. Vopea, Senior Magistrate, National Elections Commission, Liberia, April 22, 2008

Gongloe, Tiawan, Solicitor General, Liberia, November 2, 2007

Goyani, Yasmin, National Legal Officer, Monitoring Department, OSCE/UNMIK, Kosovo, March 11, 2008

Grey, Dewey, President Association of Female Lawyers, Liberia, November 7 and 13, 2008

Guldimann, Tim, Head of Mission, OSCE, Kosovo, March 13, 2008

Gutman, Alan, Legal Officer, Office of the Senior Legal Advisor to the SRSG, UNMIL, Liberia, November 5, 2007, and April 25, 2008

Hajdari-Peci, Drita, Senior Legal Advisor, National Center for State Courts (NCSC), Kosovo, March 17, 2008

Haziri, Sokol, Director, Legal Aid Commission, Kosovo, March 13, 2008

Hirst, Frazer, former Judicial Affairs Officer, UNMIL, December 2, 2008, telephone interview

Hoefer-Wissing, Neithart, Political Advisor, International Civilian Office/EUPT, Kosovo, September 29, 2007, and March 17, 2008

Hoffmann, Werner, LtC, Defense Attaché of the German Federal Republic, Liberia, November 4, 2007

Holt, Benedict, Judge, Circuit Court Grand Bassa County, Liberia, November 15, 2008

Howard-Taylor, Jewel, Senior Senator, Bong County, Liberia, November 2, 2007, and April 29, 2008

Hoxha, Brikena, former Legal Officer, Kosovo Office ABA, October 7, 2008, telephone interview

Hummel, John, Director, The Carter Center, Liberia, November 7 and 14, 2008

Huruglica, Ymer, Judge, Gnjian District Court, President of the Association of Judges, Kosovo, March 15, 2008

Hyseni, Hydajet, Member of Kosovo Assembly, former Member of Kosovo Judicial Council, Kosovo, March 12, 2008

Jack, Boma, Head, Legal Education and Training Unit, LJSSD, UNMIL, Liberia, November 4, 2008

Jacobs, Theo, Justice Expert, EUPT, Kosovo, March 7, 2008

Jallah, David, Dean, Louis A. Grimes School of Law, Liberia, November 10, 2008

Janova, Arsim, Deputy Minister of Justice, Ministry of Justice, Kosovo, March 12, 2008

Jarvon, Paul Philipp, Buchanan Defence Council, Liberia, November 15, 2008

Johnson, Ambullai, Minister of Internal Affairs, Liberia, November 14, 2008

Johnson, Miatta, Assistant Magistrate, National Elections Commission, Liberia, April 23, 2008

Johnson-Morris, Frances, Minister of Commerce and Industry, former Head of the NEC, Liberia, November 6, 2007

Johnston, Koboi, Former Minister of Justice, Liberia, November 6, 2007

Johnston, Steven, Corrections Officer, CPAS, UNMIL, Liberia, November 7, 2007

Joppe, Kirsten, Senior Human Rights/Legal Advisor, OSCE/UNMIK, Kosovo, September 1, 2007

Juergens, Julia, Count and Results Centre International Shift Manager, Good Governance and Democratic Institutions, OSCE/UNMIK, Kosovo, March 14, 2008

Juszczak, Adam, Justice Expert, EUPT, Kosovo, March 17, 2008

Kabashi, Ismet, Prosecutor, Public Prosecutor's Office of Kosovo, Kosovo, March 17, 2008

Kai-Kai, Francis, Chief of Civil Affairs Section, UNMIL, Liberia, April 22, 2008

Kajtazi, Veton, former Judge, Legal Assistant, Civil Administration, UNMIK, Kosovo, September 28, 2007, and March 12, 2008

Kakoma, Itonde, Project Manager, The Carter Center, Liberia, November 2, 2007, and November 2, 2008

Kayway, Francis S., Member, Committee on Election and Inauguration, Central Election Committee, Kosovo, March 12, 2008

Kenkpen, Alice, Assistant Magistrate, National Elections Commission, Liberia, April 23, 2008

Kennedy, Ray, former Head of UNMIL ED, Ghana, June 13, 2008, and USA, June 3, 2009

Kerveshi, Kujtim, Legal Consultant, former Legal Officer, Ministry of Justice, Kosovo, March 14, 2008

Kleffner, Doris, Senior Reintegration, Rehabilitation and Recovery Officer, UNMIL, Liberia, April 25, 2008

Kolgeci, Gezim, Deputy Director, Secretariat of Kosovo Judicial Council, Kosovo, March 19, 2008

Koster, Norbert, International Judge, UNMIK, Kosovo, March 10, 2008, and Berlin, June 10, 2009, and April 22, 2010

Krantz, Sheldon, Partner, DLA Piper, USA, April 24, 2009, telephone interview

Krasniqi, Lavdim, Director, Kosovo Judicial Institute, Kosovo, March 14, 2008

Kromah, Ansumana F., Commissioner, National Elections Commission, Liberia, April 24, 2008

Lange, Andreas W., Human Resource Officer, Chief International Recruitment, UNMIL, Liberia, November 5, 2007, and April 23, 2008

Lindemann-Macha, Ilse, Ambassador, German Embassy Monrovia, Liberia, November 5, 2007, and April 17, 2008

Lynch, Victoria A., Representative, Montserrado County, Chairman House Standing Committee on Public Works, Liberia, April 28, 2008

Mafwenga, Alinikisa, Judicial Affairs Officer, UNMIL, Liberia, April 28, 2008

Mbogori, Kagwiria, Human Rights Officer, UNMIL, Liberia, November 3, 2008

McPhail, Stephanie, Head, Judiciary Advisory Unit, LJSSD, UNMIL, Liberia, November 5, 2007, and November 11 and 12, 2008

Menthonnex, Pauline, Program Analyst, UNDP, Kosovo, September 28, 2007

Mensa-Bonsu, Henrietta, DSRSG, Rule of Law, UNMIL, Liberia, November 4, 2008

Mikullovci, Executive Officer, Central Election Commission, March 17, 2008

Millaku, Reshat, Prosecutor, Kosovo Special Prosecutor's Office, Kosovo, March 11, 2008

Miller, Mary, Project Manager, The Carter Center, Liberia, November 7, 2007

Monaghan, Thomas, former Director, Department of Justice, UNMIK, April 22, telephone interview

Mors, Wolff-Michael, Legal Officer, Human Rights and Rule of Law, OSCE/UNMIK, Kosovo, October 2, 2007

Mors-Jürgensen, Inger, Senior Reporting and Information Officer, OSCE/UNMIK, Kosovo, October 3, 2007

Morgan, Eva, Deputy Minister of Justice, Liberia, November 13, 2008

Muharremi, Robert, Lecturer, American University Pristina, former Head of Policy and Legal Support Section, UNMIK, Kosovo, October 1, 2007, and March 10 and 13, 2008

Neewoor, Rajiv, Program Manager, Kosovo Property Agency, Kosovo, March 18, 2008

Neisse, Frank, Political/Security Advisor, EUPT, Kosovo, March 11, 2008

Nelson, Elizabeth J., Co-Chairman, National Elections Commission, Liberia, April 23, 2008

Newland, Daniel, Senior Magistrate, National Elections Commission, Liberia, April 23, 2008

Nokaj, Anton, Judge and President of District Court Pristina, Chairperson of Kosovo Judicial and Prosecutorial Council, Kosovo, March 13, 2008

Nwabydike, Ndubuisi, National Legal Advisor, LJSSD, UNMIL, Liberia, November 10 2008

Nyasulu, Kamudoni, Deputy Director, LJSSD, UNMIL, Liberia, November 5, 2007, and November 3 and 12, 2008

Osmani, Lirije, Attorney, Avokatura Osmani, Kosovo, March 17, 2008

Pavlin, Peter, Legal Consultant, Kosovo, October 8, 2008, telephone interview

Petilos, Erwin, Kosovo Special Prosecutor's Office, UNMIK, Kosovo, October 1, 2007

Pezi, Lulzim, Executive Director, Kosovar Institute for Policy Research and Development (KIPRED), Kosovo, September 28, 2007

Pinzaro, Fabio, Special Assistant to Chief International Prosecutor, UNMIK, Kosovo, March 13, 2008

Profos, Jolanda, Special Assistant/Coordination Officer, ODSRSG Recovery and Governance, UNMIL, Liberia, November 6, 2007

Reeves, Della Irea King, Commissioner, National Elections Commission, Liberia, April 23, 2008

Reeves, Lemuel, National Legal Advisor, LJSSD, UNMIL, Liberia, November 4, 2008

Roccatello, Anna Myriam, Head of Legal Policy Division, Department of Justice, UNMIK, Kosovo, October 3, 2007, and March 15 and 18, 2008

Rolando, Elizabeth, Head of Judicial Development Division, Department of Justice, UNMIK, Kosovo, September 30, 2007, and March 15 and 18, 2008

Rosandhaug, Knut, Executive Director, Kosovo Property Agency, Kosovo, October 2, 2007

Rueger, Christina, Legal Officer, UNMIK, Kosovo, March 12, 2008

Salihaj, Jonuz, former Minister of Justice, General-Secretary of AAK, Kosovo, March 10, 2008

Shatri, Skender, Field Election Specialist, Department of Elections, OSCE/UNMIK, Kosovo, March 18, 2008

Sirakov, Yordan, Judicial Administration Expert, EUPT, Kosovo, March 7, 2008

Smith, Gabriel B., Representative, Grand Bassa County, Chairman of Election and Inauguration, Liberia, April 22, 2008

Staletovic, Bogoljub, Deputy Chief Executive Officer, Central Election Commission, Kosovo, March 18, 2008

Starling, Kenneth, Partner, DLA Piper, USA, April 24, 2009, telephone interview

Thomas, Alice, Special Advisor to Ombudsperson Institution (OIK)/Human Rights, OSCE/UNMIK, Kosovo, March 16, 2008

Tooney, Mamma Zoe, Liberia, November 6 and 13, 2008

Tuah, Samuel G., Planning Officer, Traditional Council of Chiefs, Liberia, November 11, 2008

Tuhina, Aqif, Attorney, former Supreme Court Judge, Kosovo, March 12, 2008

Ursino, Steven A., Country Director, UNDP Liberia, Ghana, November 1, 2007

Valcke, Anthony, Director, American Bar Association, Africa Law Initiative, Liberia, November 7, 2007, and April 27 and November 11, 2008

Vanhoutte, Peter, Senior Political Advisor, OSCE/UNMIK, Kosovo, October 1, 2007

Vela, Blerim, Program Officer, OSCE/UNMIK, Kosovo, October 2, 2007

Verdier, Jerome, Chair, Truth and Reconciliation Commission, Liberia, November 2, 2007

Warttmann, Sofia, Associate RRR Officer, UNMIL, Liberia, November 7, 2007

Weedor, Jonathan K., Commissioner, National Elections Commission, Liberia, April 22, 2008

Wiertz, Sheila, Consultant, Pacific Architects and Engineers (PAE), Liberia, November 7, 2008

Wiggs, E. Drun-Willie, Deputy Chief Police, Grand Bassa County, Liberia, November 15, 2008

Williams, Elizabeth P., Representative, District Rivercess, Liberia, April 23, 2008

Winterstein, Anna-Christina, Justice Expert, EUPT, Kosovo, September 28, 2007, and March 14, 2008

Wittkowsky, Andreas, Deputy Head of UNMIK Pillar IV, UNMIK, Kosovo, March 7, 2008

Xhemajli, Zait, Supreme Court Judge, Kosovo, March 10, 2008

Zhitia Hilmi, Chief Prosecutor, Kosovo, March 10, 2008

Zulu, Bokai S., Vice-Chairman of Traditional Council for Elders Affairs, Liberia, November 11 and 13, 2008